

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, REPEALING ORDINANCE NUMBER 1438, AND SUBSEQUENT AMENDMENTS THERETO, ENTITLED THE "ZONING ORDINANCE" AND RECREATING THE "ZONING ORDINANCE" (ZA-91-02).

WHEREAS, it is the intent of the City of Milwaukie Comprehensive Plan that implementing ordinances be consistent; and

WHEREAS, Ordinance Number 1438 includes sections with differing formats and inconsistencies; and

WHEREAS, a reformatted and corrected Zoning Ordinance was considered at a public hearing before the Planning Commission on September 24, 1991, and the City Council on October 15, 1991; and

WHEREAS, the City Council finds the proposal should be approved based on the findings listed below;

NOW, THEREFORE, THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

Section 1. Findings. The following findings of fact are adopted:

FINDINGS


1. Ordinance Number 1438 is to be repealed, replaced by the document attached as Exhibit A.
2. Ordinance Number 1438 currently contains inconsistent formatting, includes several language discrepancies (see Exhibit B.), and lacks a table of contents.
3. The reformatted Zoning Ordinance (Exhibit A.) is intended to correct the problems noted in Finding 2. without changing the intent or substance of the current Zoning Ordinance.
4. Objective 2, Policy 3 of the Plan Review and Amendment Process Chapter of the Comprehensive Plan requires consistency in City implementation ordinances.
5. The reformatted and corrected Zoning Ordinance will improve the ease in use of this document by City staff and citizens.

Section 2. Zoning Ordinance. Ordinance Number 1438, the "Zoning Ordinance," enacted November 5, 1979, as amended by Ordinance Numbers 1447, 1454, 1465, 1546, 1547, 1561, 1564, 1569, 1577, 1619, 1620, 1637, 1650, 1667, 1672, 1683, 1686, and 1705, is hereby repealed. The "Zoning Ordinance" is recreated, reading as identified in Exhibit A.

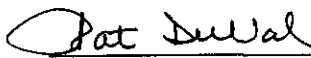
Read the first time on October 15, 1991, and moved to second reading by October 15 vote of the City Council.

Read the second time and adopted by the City Council on October 15 1991.

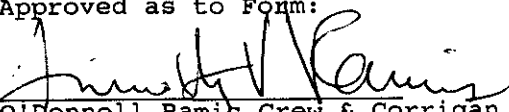
Signed by the Mayor on October 15, 1991.


Craig Lomnicki Mayor

ATTEST:


City Recorder

Approved as to Form:


O'Donnell Ramis Crew & Corrigan
City Attorney

City of Milwaukie
Zoning Ordinance

Adopted October 15, 1991

ORDINANCE NUMBER _____

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Read the first time on _____, 1991, and moved to second reading by _____ vote of the City Council.

Read the second time and adopted by the City Council on _____, 1991.

Signed by the Mayor on _____, 1991.

Craig Lomnicki, Mayor

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City Recorder

Approved as to Form:

O'Donnell Ramis Crew & Corrigan
City Attorney

**CITY OF MILWAUKIE
ZONING ORDINANCE**

TABLE OF CONTENTS

SECTION 100 INTRODUCTORY PROVISIONS

- 101 TITLE
- 102 PURPOSE
- 103 DEFINITIONS

SECTION 200 BASIC PROVISIONS

- 201 COMPLIANCE WITH ORDINANCE PROVISIONS
- 202 CLASSIFICATION OF ZONES
- 203 LOCATION OF ZONES
- 204 BOUNDARIES OF ZONES
- 205 ZONING MAPS
- 206 ZONING OF ANNEXED AREAS

SECTION 300 USE ZONES

- 301 RESIDENTIAL ZONE R-10
- 302 RESIDENTIAL ZONE R-7
- 303 RESIDENTIAL ZONE R-5
- 304 RESIDENTIAL ZONE R-3
- 305 RESIDENTIAL ZONE R-2.5
- 306 RESIDENTIAL ZONE R-2
- 307 RESIDENTIAL-BUSINESS OFFICE-COMMERCIAL ZONE R-1-B
- 308 RESIDENTIAL ZONE R-1
- 309 RESIDENTIAL-OFFICE-COMMERCIAL ZONE R-O-C
- 310 NEIGHBORHOOD COMMERCIAL ZONE C-N
- 311 LIMITED COMMERCIAL ZONE C-L
- 312 CENTRAL COMMERCIAL ZONE C-C
- 313 GENERAL COMMERCIAL ZONE C-G
- 314 MANUFACTURING ZONE M
- 315 COMMUNITY SHOPPING COMMERCIAL ZONE C-CS
- 316 AIRCRAFT LANDING FACILITY ZONE L-F
- 317 (FOR FUTURE USE)
- 318 (FOR FUTURE USE)
- 319 PLANNED DEVELOPMENT ZONE PD
- 320 WILLAMETTE GREENWAY ZONE WG
- 321 COMMUNITY SERVICE OVERLAY ZONE CSO
- 322 NATURAL RESOURCE OVERLAY ZONE NR
- 323 HISTORIC PRESERVATION OVERLAY ZONE HP
- 324 BUSINESS INDUSTRIAL ZONE BI
- 325 MCLOUGHLIN CORRIDOR OVERLAY ZONE MC

SECTION 400 SUPPLEMENTARY REGULATIONS

- 401 ACCESSORY USES, GENERAL PROVISIONS
- 402 STORAGE IN FRONT YARD
- 403 CLEAR VISION AREAS
- 404 MAINTENANCE OF MINIMUM ORDINANCE REQUIREMENTS
- 405 DUAL USE OF REQUIRED OPEN SPACE
- 406 BUILDINGS ON THE SAME LOT
- 407 DISTANCE FROM PROPERTY LINE
- 408 PROJECTIONS FROM BUILDINGS
- 409 LOT SIZE REQUIREMENTS, GENERAL EXCEPTIONS
- 410 YARD REQUIREMENTS, GENERAL EXCEPTIONS
- 411 BUILDING HEIGHT LIMITATIONS, GENERAL EXCEPTIONS
- 412 ADDITIONAL BUILDING HEIGHT
- 413 TRANSITION AREA
- 414 MINIMUM VEGETATION
- 415 DENSITY AND DEDICATION OF PARK LAND
- 416 DENSITY AND HOUSING COST
- 417 TEMPORARY STRUCTURE PERMITS

TABLE OF CONTENTS

SECTION 400 SUPPLEMENTARY REGULATIONS continued

- 418 MOBILE HOME PARKS
- 419 MANUFACTURED HOME PLACEMENT

SECTION 500 OFF-STREET PARKING AND LOADING

- 501 OFF-STREET PARKING REQUIREMENTS
- 502 OFF-STREET LOADING REQUIREMENTS
- 503 OFF-STREET PARKING AND LOADING, GENERAL PROVISIONS

SECTION 600 CONDITIONAL USES

- 601 AUTHORIZATION TO GRANT OR DENY CONDITIONAL USES
- 602 STANDARDS GOVERNING CONDITIONAL USES

SECTION 700 VARIANCES, EXCEPTIONS

- 701 VARIANCES, EXCEPTIONS, SPECIAL VARIANCES, AND PLAN REVIEW
- 702 CIRCUMSTANCES FOR GRANTING VARIANCES
- 703 ADMINISTRATIVE VARIANCE
- 704 VARIANCE PROCEDURE
- 705 AUTHORIZATION TO GRANT OR DENY EXCEPTIONS
- 706 EXCEPTION PROCEDURES
- 707 HEIGHT VARIANCE
- 708 DENSITY VARIANCE

SECTION 800 NONCONFORMING USES

- 801 CONTINUATION OF A NONCONFORMING STRUCTURE
- 802 CONTINUATION OF A NONCONFORMING USE
- 803 DISCONTINUANCE OF NONCONFORMING USE
- 804 IMPROVEMENT OF CERTAIN NONCONFORMING USES
- 805 CHANGE OF NONCONFORMING STRUCTURE
- 806 CHANGE OF NONCONFORMING USE
- 807 DESTRUCTION OF NONCONFORMING STRUCTURE OR USE
- 808 COMPLETION OF STRUCTURE

SECTION 900 AMENDMENTS

- 901 INITIATION OF AMENDMENTS
- 902 AMENDMENT PROCEDURE
- 903 REQUIREMENTS FOR ZONING MAP AMENDMENTS
- 904 REQUIREMENTS FOR ZONING TEXT AMENDMENTS
- 905 APPROVAL CRITERIA FOR ALL AMENDMENTS
- 906 CONDITIONS OF APPROVAL
- 907 MODIFICATION OF OFFICIAL ZONING MAP
- 908 REVOCATION

SECTION 1000 ADMINISTRATIVE PROVISIONS

- 1001 ENFORCEMENT
- 1002 TIME LIMIT AND APPEAL FROM RULING OF PLANNING COMMISSION
- 1003 FORM OF PETITIONS, APPLICATIONS, AND APPEALS
- 1004 REVIEW OF APPLICATION
- 1005 CONCURRENT REVIEWS
- 1006 FILING FEES
- 1007 APPLICABLE STANDARDS AND CRITERIA
- 1008 EX PARTE CONTACT
- 1009 DECISIONS
- 1010 MANDAMAS AUTHORIZED
- 1011 PROCEDURES
- 1012 RECESS OF HEARING
- 1013 TIME LIMIT ON A PERMIT FOR A CONDITIONAL USE OR VARIANCE

TABLE OF CONTENTS

SECTION 1100 MISCELLANEOUS PROVISIONS

- 1101 INTERPRETATION
- 1102 SEVERABILITY
- 1103 REPEAL

SECTION 1200 REMEDIES

- 1201 PENALTY
- 1202 ALTERNATIVE REMEDY

SECTION 1300 SOLAR ACCESS PROTECTION

- 1301 PURPOSE
- 1302 DEFINITIONS
- 1303 SOLAR ACCESS FOR NEW DEVELOPMENT
- 1304 SOLAR BALANCE POINT
- 1305 SOLAR ACCESS PERMIT

SECTION 100

INTRODUCTORY PROVISIONS

101 Title

This Ordinance shall be known and may be cited as the Zoning Ordinance of the City of Milwaukie, Oregon.

102 Purpose

The purpose of this Ordinance is to provide for the public health, safety and general welfare of the citizens of the City of Milwaukie through orderly community development, with consideration for concentration of population, economic development, limitation of dangerous, offensive or unwholesome trades or industries, maintenance of adequate light and air and regulation of traffic.

103 Definitions

Access: Means the way or means by which pedestrians and vehicles enter and leave property.

Accessory structure or accessory use: Means a structure or use incidental and subordinate to the main use of property and located on the same lot as the main use, including any required off-street parking within 200 feet (measured in a straight line) of the building or use it is intended to serve.

Adult entertainment business: Means an establishment which, for any form of consideration, provides or exhibits primarily products or performances characterized by an emphasis on the depiction or description of specified anatomical areas or specified sexual activities. "Adult entertainment business" includes, but is not limited to, adult arcades, adult bookstores, adult clubs, adult bars, adult motels or hotels and adult theaters.

Agriculture: Means the tilling of the soil, the raising of crops, dairying or animal husbandry, but not including the keeping or raising of fowl, pigs, or fur-bearing animals unless the keeping of animals is clearly incidental to the principal use of the property for the raising of crops.

Airport or aircraft landing facility: Means any landing area, runway or other facility designed, used, or intended to be used by aircraft and including all necessary taxiways, hangars, and other necessary buildings and open spaces.

Alley: Means a minor way which is used primarily for vehicular service to the back or side of properties otherwise abutting on a street.

Alteration: Means a change in construction or a change in occupancy. Where the term "alteration" is applied to a change in construction, it is intended to apply to any change, addition, or modification in construction. When the term is used in connection with a change in occupancy, it is intended to apply to changes in occupancy from one use to another.

Alteration, structural: Means a change or repair which would tend to prolong the life of the supporting member of a building or structure. A change in the external dimension of the building shall be considered a structural alteration.

SECTION 100 - INTRODUCTORY PROVISIONS

Automobile service station: Means a retail place of business engaged primarily in the sale of motor fuels, but also supplying goods and services required in the operation and maintenance of automotive vehicles. These may include petroleum products, tires, batteries, automotive accessories and replacement items, washing and lubrication services, the performance of minor automotive maintenance and repair, and the supplying of other incidental customer services and products, but not major automotive repairs, painting and body and fender work.

Basement: Means a portion of a building, not deemed a story, which has more than one half of its height (but not more than six feet) measured from finished floor to finished ceiling above the adjoining ground level grade.

Boarding, lodging or rooming house: Means a building or portion thereof without separate housekeeping facilities to be occupied, or which is occupied primarily by persons paying consideration for sleeping purposes where meals may or may not be provided.

Buffer area: Means a land area with space, landscaping, and other means sufficient to protect the uses in one zone from being offensive to the uses in another zone.

Building: Means a structure built for the support, shelter, or enclosure of any persons, animals, chattels, or property of any kind excepting uncovered patios or decks not exceeding 18 inches in height above the average grade of the adjoining ground.

Building height: Means the vertical distance measured from the adjoining street centerline grade, as established by the City, to the highest point of the roof surface of a flat roof, to the deck line of a mansard roof, and to the mean height level between the eaves and ridge for a gable, hip, or gambrel roof, provided, however, that where buildings are set back from the street line, the height of the building may be measured from the average elevation of the finished grade at the front of the building.

Building line: Means a line that coincides with the front side of the main building.

Commercial recreation: Means an establishment where people pay for recreation including such types as health center, places with court games, dance halls, places with machine games, and so forth.

Cellar: Means a room or group of rooms, usually under a building, which has more than one half of its height measured from finished floor to finished ceiling below the average grade of the adjoining ground.

Church: Means a structure used by a religious organization having a tax-exempt status.

City: Means the City of Milwaukie, Oregon.

Day-care center: Means any facility, institution, establishment, or place not a part of a school as defined in Section 103 and not meeting the definition of family day care, that provides day care to children not of common parentage, including day nurseries, nursery schools, preschools, day-care facilities, or similar units operating under any name for the purpose of being given board, care, or training apart from their parents or guardians for compensation or reward.

Dormitory: Means a room which is rented for sleeping purposes for more than four persons.

SECTION 100 - INTRODUCTORY PROVISIONS

Drinking establishment: Means a tavern, bar, cocktail lounge, or other similar business establishment with the primary function of preparing and serving alcoholic beverages to the public for consumption on the premises. This establishment may or may not be in conjunction with an eating establishment.

Dwelling unit: One or more rooms designed for occupancy by one family, but excluding a recreational vehicle.

Secondary Dwelling Unit: A dwelling unit allowed in conjunction with another dwelling unit either by means of existing space or by means of an addition.

Dwelling, single-family attached: Means two or three houses, each occupied by one family, sharing common structural walls. Each dwelling and lot are under single ownership.

Dwelling, single-family detached: Means a house normally occupied by one family with no structural connection to adjacent units. The unit may be situated at a specified distance from lot lines, or with one wall on a side property line. The dwelling and lot are usually under single ownership.

Dwelling, town house: Means four or more houses, usually two-story and each normally occupied by one family, sharing common structural walls. Each dwelling and lot are under single ownership or lots are under joint ownership.

Dwelling, multifamily apartment: Means a single structure containing four or more dwelling units, usually for rent.

Dwelling, multifamily condominium: Means a single structure containing four or more individually owned dwelling units, with all other common elements jointly owned on a specified basis.

Dwelling, interior single-family attached, interior town house, interior multi-family condominium: Means that dwelling unit or units that are interior to the whole residential structure and does not include the dwelling units that are on the ends of the structure facing lot lines.

Eating establishment: Means a restaurant or other similar business establishment with the primary function of serving food, prepared to order, to the public, and may serve alcoholic beverages at the dining table. This establishment may or may not have an attached drinking establishment.

Family: Means one person or two or more persons related by blood, marriage, legal adoption, or guardianship; or a group of not more than five persons (excluding servants) all or part of whom are not related by blood, marriage, legal adoption, or guardianship living together as a single housekeeping unit in a dwelling unit.

Family day care: Means a private residence occupied by the family day-care provider in all areas zoned for residential or commercial purposes and used as a home occupation by the provider for the care of fewer than 13 children, including children of the provider, regardless of full-time or part-time care status.

Fence, sight-obscuring: Means a fence consisting of wood, metal, masonry, or similar materials, or an evergreen hedge or other evergreen planting, arranged in such a way as to obscure vision at least 80 percent.

Floodway: Means the channel of a stream and adjacent land areas which are required to carry and discharge flood waters or flood flows of a 100-Year Flood, as defined by the Corps of Engineers.

SECTION 100 - INTRODUCTORY PROVISIONS

Floodway fringe: Means that land area which is outside of the stream floodway but is subject to periodic inundation by a 100-Year Flood, as defined by the Corps of Engineers.

Floor area: Means the sum of the gross horizontal area of the general floor of a building, measured from the exterior faces of the exterior walls, or from the centerline of walls separating two buildings, but not including:

- a. Attic space providing headroom of less than seven feet.
- b. Basement or cellar;
- c. Uncovered steps or fire escapes;
- d. Private garages, carports, or porches;
- e. Accessory water towers or cooling towers;
- f. Accessory off-street parking or loading spaces.

Foster home: Means any home maintained by a person licensed by the State of Oregon to provide care, food, and lodging in such home for not more than ten (10) children, including his or her own children, under the age of eighteen (18) years and unaccompanied by a parent or guardian.

Frontage: Means property abutting on a street.

Grade, ground level: Means the average of the finished ground level at the center of all walls of a building. Where the walls are parallel to and within five feet of a public sidewalk, the ground level shall be measured at the average sidewalk elevation.

High-impact commercial businesses: Means any such use that generates substantial traffic, or noise, or light, or irregular hours, or other negative impact on the community. Examples include, but are not limited to: drinking establishments, commercial recreation, adult entertainment businesses, theaters, hotels and motels.

Home occupation: Means an occupation normally carried on at a dwelling as an accessory use to the dwelling, with the activity conducted in such a manner as to give no appearance of a business, and with no infringement upon the right of neighboring residents to enjoy the peaceful occupancy of their homes.

Horticulture: Means the cultivation of plants, garden crops, trees, or nursery stock.

Hotel: Means a building or portion thereof designed or used for occupancy of transient individuals who are lodged with or without meals, and in which no provision is made for cooking in any individual room or suite.

Institution, higher educational: Means a college or university, accredited by the State of Oregon.

Junkyard: Means any establishment or place of business that is maintained, operated or used for storing, keeping, buying, or selling old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste or junked, dismantled, wrecked, scrapped or ruined motor vehicles, or motor vehicle parts, iron, steel or other scrap or old ferrous or nonferrous material, metal or nonmetal materials, and the term includes automobile graveyards, garbage dumps and scrap metal processing facilities.

Kennel: Means any lot or premises on which four or more dogs, more than four months of age, are kept.

SECTION 100 - INTRODUCTORY PROVISIONS

Kitchen facility: Means an area in which something is built, installed or established to prepare food for eating by a heating process.

Landscaping: Means vegetation and materials including but not limited to shrubs, grass, trees, planting beds, and bark dust.

Livestock: Means domestic animals, such as cattle, horses, sheep, hogs, or goats, raised for home use or for profit.

Loading space: Means an off-street space or berth on the same lot, or parcel, with a building or use, or contiguous to a group of buildings or uses, for the temporary parking of a vehicle while loading or unloading persons, merchandise, or materials, and which space or berth abuts upon a street, alley or other appropriate means of access and egress.

Lot: Means a plot, parcel, or area of land owned by or under the lawful control and in the lawful possession of one distinct ownership.

Lot, corner: Means a lot abutting on two or more streets, other than an alley, at their intersection.

Lot coverage: Means the area covered by a building or buildings on a lot, expressed as a percentage of the total lot area.

Lot, depth: Means the average horizontal distance between the front lot line and the rear lot line.

Lot, interior: Means a lot other than a corner lot.

Lot line: Means the property line bounding a lot.

Lot line, front: In the case of an interior lot, the lot line separating the lot from the street other than an alley; and in the case of a corner lot, a line separating the lot from the street on which the contemplated development will face.

Lot line, rear: A lot line which is opposite and most distant from the front lot line; and in the case of an irregular, triangular or other-shaped lot, a line ten feet in length within the lot parallel to and at the maximum distance from the front lot line.

Lot line, side: Any lot line not a front or rear lot line.

Lot through: Means an interior lot having frontage on two streets.

Lot width: Means the horizontal distance between side lot line measured at the building line.

Major arterial street: Means a street that carries both local and through traffic to destinations outside the local community. The major arterial provides access to other communities, as well as access through Milwaukie. Public transit to other communities generally use major arterials. The major arterial is McLoughlin Boulevard as illustrated in the Comprehensive Plan.

Manufactured home: Means a structure with a Department of Housing and Urban Development (HUD) label certifying that the structure is constructed in accordance with the Manufactured Housing Construction and Safety Standards of 1974 (42 USC Sections 5401 et. seq.) as amended on August 22, 1981.

Manufactured home subdivision: Means a parcel of land intended for and designed specifically to accommodate manufactured homes on single-family residential lots. The parcel shall meet all requirements of the primary zone and all requirements of the City of Milwaukie Subdivision Ordinance.

SECTION 100 - INTRODUCTORY PROVISIONS

Minor arterial street: Means a street that carries local traffic between neighborhood areas or to regional facilities. The minor arterial provides access from neighborhood collector streets to community services and to other neighborhoods within, or immediately adjacent to, the City. Local public transit may use minor arterial streets. (The minor arterials are illustrated in the Comprehensive Plan. These include all or portions of Harrison, King, Monroe, Lake, Railroad, Harmony, Johnson Creek, Linwood, Oatfield, 17th, River Road, and 42nd.)

Mobile home: Means a residential trailer, mobile house, or manufactured home meeting ORS 446.003(17) and designed to be used as a year-round residential dwelling. The structure must also be at least 12 feet in width containing 700 or more square feet of living space designed for occupancy by one family. The unit is not equipped with a permanent hitch and does not have wheels or axles permanently attached to its body or frame.

Mobile home park: Means a lot, tract, or parcel of land under one ownership, the primary purpose of which is to rent space for placement of a mobile home. A mobile home park shall contain a minimum of 2 acres, and a minimum of four mobile homes.

Motel or tourist court: Means one or more buildings designed or used as temporary living quarters for transients.

Nonconforming structure or use: Means a lawful existing structure or use, at the time this Ordinance or any amendment thereto becomes effective, which does not conform to the requirements of the zone in which it is located.

Open space: Means any parcel of land or portion of a parcel without a structure, except as used and defined in the Planned Development Zone.

Owner: Includes an authorized agent of the owner.

Parking space: Means an area available for the parking of a standard American automobile or compact size.

Person: Means any natural person, firm, partnership, association, social or fraternal organization, corporation, estate, trust, receiver, syndicate, branch of government, or any other group or combination acting as a unit.

Poultry: Means domestic fowl, such as chickens, turkeys, ducks or geese, raised for flesh or eggs.

Preapplication conference: A meeting between Community Development Department staff and an applicant or property owner. It provides for an exchange of information regarding applicable requirements of City codes, makes available technical assistance which will aid in the development of an application and attempts to identify procedures, policies and regulations that may pose opportunities or constraints for a proposal.

Prefabricated construction (modular units): Means a structural unit, conforming to the Uniform Building Code, that has been wholly or in part prefabricated at an off-site location and brought by trailer to the site for assembly.

Public park: Means a park, playground, swimming pool, reservoir, or athletic field within the City which is under the control, operation or management of the Milwaukie Community Services Department.

Railroad facilities: Means railroad switching yards, terminal structure, railroad tracks, or any other facilities connected with railroads which generate substantial noise or nuisance.

SECTION 100 - INTRODUCTORY PROVISIONS

Residential care facility: Means a facility that provides, for six or more physically handicapped or socially dependent individuals, residential care in one or more buildings or contiguous properties. Residential care facilities may be allowed in all areas subject to Community Service Overlay review.

Residential home: Means a residence for five or fewer physically or mentally handicapped persons and for not more than two staff persons who need not be related to each other or to any other home resident. Residential homes may be permitted as a home occupation in all areas zoned for residential or commercial purposes.

School, commercial: Means a place where instruction is given to pupils in arts, crafts, trades, or other occupational skills, and operated as a commercial enterprise as distinguished from schools endowed or supported by taxation.

School, primary, elementary, junior high, or high: Includes public, private or parochial but not nursery school, kindergarten or day nursery, except when operated in conjunction with a school.

Senior, retirement, and handicapped housing: Means a multiunit dwelling where persons who are of retirement age or who are handicapped, reside. Activity levels including traffic generation and parking of cars, is generally lower than for other types of housing. Common facilities for eating and activities may be provided; nursing care and medical supplies, and personal services may be provided on a limited basis. One person may own the entire complex or each dwelling unit may be owned separately as in a condominium. The dwelling units shall not have more than one bedroom per unit and shall not have more than 800 square feet per dwelling unit.

Specified anatomical areas: Means and includes any of the following:

- a. Less than completely and opaquely covered genitals, pubic region, buttock, anus or female breast below a point immediately above the top of the areola; or
- b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities: Means and includes any of the following:

- a. The fondling or other erotic touching of human genitals, pubic region, buttock, anus or female breast;
- b. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy;
- c. Masturbation, actual or simulated; or
- d. Excretory functions as part of or in connection with any of the activities set forth in "a" through "c" of this definition.

Story, half: Means a story under a gable, hip, or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than two feet above the floor of such story.

Street: Means the entire width between the right-of-way lines of every way for vehicular and pedestrian traffic and includes the terms "road", "highway", "lane", "place", "avenue", "alley", and other similar designations.

Structure: Means something constructed or built and having a fixed base or, fixed connection to, the ground or another structure. (Streets and utilities are excluded from this definition.)

SECTION 100 - INTRODUCTORY PROVISIONS

Transition area: Means an area where new town house and multifamily projects in R-3, R-2, and R-1 Zones that are adjacent to areas designated for lower densities have required transition measures.

Use: Means the purpose for which land or a structure is designed, arranged, or intended, or for which it is occupied or maintained.

Vegetation: Means plantings or natural growth of trees, grass, shrubs, etc., which would permit normal percolation.

Vehicle: Means a device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

Yard: Means an open space on a lot which is unobstructed from the ground upward except as otherwise provided in this Ordinance.

Yard, front: Means a yard between side lot lines, and measured horizontally at right angles to the front lot line from the lot line to the nearest point of the building.

Yard, rear: Means a yard between side lot lines or between a street side yard and opposite side lot line and measured horizontally at right to the rear lot line from the rear lot line to the nearest point of a main building.

Yard, side: Means a yard between the front and rear yard measured horizontally and at right angles from the side lot line to the nearest point of the building.

Yard, street side: Means a yard adjacent to a street between the front yard and the rear lot line, measured horizontally and at right angles from the side lot to the nearest point of the building.

SECTION 200
BASIC PROVISIONS

201 COMPLIANCE WITH ORDINANCE PROVISIONS

A lot may be used and a structure or part of a structure constructed, reconstructed, altered, occupied, or used only as this Ordinance permits.

202 CLASSIFICATION OF ZONES

For the purposes of the Ordinance, the following zones are hereby established in the City:

<u>Zone Description</u>	<u>Abbreviated Description</u>
Residential	R-10
Residential	R-7
Residential	R-5
Residential	R-3
Residential	R-2.5
Residential	R-2
Residential-Business Office-Commercial	R-1-B
Residential	R-1
Residential-Office-Commercial	R-O-C
Commercial, Neighborhood	C-N
Commercial, Limited	C-L
Commercial, Central	C-C
Commercial, General	C-G
Manufacturing	M
Commercial, Community Shopping	C-CS
Aircraft Landing Facility	L-F
Planned Development	PD
Willamette Greenway	WG
Community Service Overlay	CSO
Natural Resource Overlay	NR
Historic Preservation Overlay	HP
Business Industrial	BI
McLoughlin Corridor Overlay	MC

203 LOCATION OF ZONES

The boundaries for the zones established in this Ordinance are indicated on a map entitled "Zoning Map of Milwaukie, Oregon", which is hereby adopted by reference. The boundaries shall be modified in accordance with Zoning Map amendments which shall be adopted by reference.

204 BOUNDARIES OF ZONES

If a zone boundary as shown on the map divides a lot between two zones, the entire lot shall be deemed to be in the zone in which the greater area of the lot lies, provided that this adjustment involves a distance not to exceed 20 feet from the mapped zone boundary.

SECTION 200 - BASIC PROVISIONS

205 ZONING MAPS

A Zoning Map or Zoning Map amendments adopted by Section 203 of this Ordinance, or by an amendment, shall be prepared by authority of the City Planning Commission or be a modification by the City Council of a map or map amendment. The map or map amendment shall be dated with the effective date of the ordinance that adopts the map or map amendment.

A certified print of the adopted map or map amendment shall be maintained without change in the office of the City Recorder as long as this Ordinance remains in effect.

206 ZONING OF ANNEXED AREAS

Area annexed to the City shall be included within the boundaries of zones established in this Ordinance. The Planning Commission shall recommend to the City Council which shall adopt by ordinance appropriate zoning as follows:

206.1 Area not zoned before annexation

Area not zoned before annexation shall be in the R-10, single-family residential, Zone, or the zone indicated by the adopted Comprehensive Plan of the City.

206.2 Area already zoned before annexation

Area already zoned before annexation shall be in the City zone most closely approximating the zoning in effect prior to annexation or the zone indicated by the adopted Comprehensive Plan of the City.

SECTION 300

USE ZONES

301 RESIDENTIAL ZONE R-10

In an R-10 Zone the following regulations shall apply:

301.1 Outright uses permitted

In an R-10 Zone the following uses and their accessory uses are permitted outright:

- A. Single-family detached dwelling
- B. Agricultural or horticultural use, provided that:
 - 1. A retail or wholesale business sales office is not maintained on the premises; and
 - 2. Poultry or livestock other than usual household pets are not housed or kept within 100 feet of any dwelling not on the same lot, nor on a lot less than one acre, nor having less than 10,000 square feet per head of livestock.
- C. Any other use similar to the above and not listed elsewhere.

301.2 Conditional Uses Permitted

In an R-10 Zone the following conditional uses and their accessory uses are permitted subject to the provisions of Section 600:

- A. Temporary real estate office in a subdivision.
- B. Single-family attached dwelling.
- C. Senior, retirement and handicapped housing.
- D. Secondary dwelling unit.
- E. Any other use similar to the above and not listed elsewhere.

301.3 Standards

In an R-10 Zone the following standards shall apply:

- A. Lot size: Lot area shall be at least 10,000 feet, and the lot area shall be not less than an average of 7,000 square feet for dwelling of a single-family attached complex. Lot width shall be at least 30 feet for an interior single-family attached unit. Average lot depth shall be at least 100 feet. Lot width shall be at least 70 feet.
- B. Front yard: A front yard shall be at least 20 feet.
- C. Side yard: A side yard shall be at least 10 feet, except on corner lots a side yard shall be at least 20 feet on the side abutting the street. For interior single-family attached units, side yards are not required.
- D. Rear yard: A rear yard shall be at least 20 feet.

SECTION 301 - RESIDENTIAL ZONE R-10

- E. Yard abutting a major street: A yard abutting a major street listed in Section 410 shall be established in accordance with the standard set forth therein.
- F. Off-street parking and loading: As specified in Section 500.
- G. Height restriction: Maximum height of a structure shall be $2\frac{1}{2}$ stories or 35 feet, whichever is less.
- H. Lot coverage: Maximum area that may be covered by one dwelling structure and accessory buildings shall not exceed 30 percent of the total area of the lot.
- I. Minimum vegetation: Minimum area that must be left or planted in trees, grass, shrubs, barkdust for planting beds, etc. will be 35 percent of the total area of the lot.
- J. Access requirement: Every lot shall abut a public street other than an alley for at least 35 feet except as provided in the Subdivision Ordinance. The lot for an interior single-family attached unit shall abut a public street for at least 20 feet.

302 RESIDENTIAL ZONE R-7

In an R-7 Zone the following regulations shall apply:

302.1 Outright uses permitted

In an R-7 Zone the following uses and their accessory uses are permitted outright:

- A. Single-family detached dwelling.
- B. Manufactured homes.
- C. Manufactured home subdivisions.
- D. Agricultural or horticultural use, provided that:
 - 1. A retail or wholesale business sales office is not maintained on the premises; and
 - 2. Poultry or livestock other than usual household pets are not housed or kept within 100 feet of any dwelling not on the same lot nor on a lot less than one acre, nor having less than 10,000 square feet per head of livestock.
- E. Any other use similar to the above and not listed elsewhere.

302.2 Conditional uses permitted

In an R-7 Zone the following conditional uses and their accessory uses are permitted subject to the provisions of Section 600:

- A. Temporary real estate office in a subdivision.
- B. Single-family attached dwelling.
- C. Senior, retirement and handicapped housing.
- D. Secondary dwelling unit.
- E. Any other use similar to the above and not listed elsewhere.

302.3 Standards

In an R-7 Zone the following standards shall apply:

- A. Lot size: Lot area shall be at least 7,000 square feet. For a single-family attached complex the lot area shall be an average of at least 7,000 square feet per unit. Lot width shall be at least 60 feet. The minimum lot width shall be 30 feet for interior single-family attached units. Average lot depth shall be at least 80 feet.
- B. Front yard: A front yard shall be at least 20 feet.
- C. Side yard: A side yard shall be at least 5 feet and one side yard shall be at least 10 feet except on corner lots a side yard shall be at least 20 feet on the side abutting the street. For interior single-family attached units, side yards are not required.
- D. Rear yard: A rear yard shall be at least 20 feet.

SECTION 302 - RESIDENTIAL ZONE R-7

- E. Yard abutting a major street: A yard abutting a major street listed in Section 410 shall be established in accordance with the standard set forth therein.
- F. Off-street parking and loading: As specified in Section 500.
- G. Height restriction: Maximum height of a structure shall be $2\frac{1}{2}$ stories or 35 feet, whichever is less.
- H. Lot coverage: Maximum area that may be covered by the dwelling structure and accessory buildings shall not exceed 30 percent of the total area of the lot.
- I. Minimum vegetation: Minimum area that must be left or planted in trees, grass, shrubs, barkdust for planting beds, etc. will be 30 percent of the total area of the lot.
- J. Access requirement: Every lot shall abut a public street other than an alley for at least 35 feet except as provided in the Subdivision Ordinance. The lot for an interior single family attached unit shall abut a public street for at least 20 feet.

SECTION 303 - RESIDENTIAL ZONE R-5

303 RESIDENTIAL ZONE R-5

In an R-5 Zone the following regulations shall apply:

303.1 Outright uses permitted

In an R-5 Zone the following uses and their accessory uses are permitted outright:

- A. Single-family detached dwelling.
- B. Single-family attached dwelling.
- C. Agricultural or horticultural use, provided that:
 - 1. A retail or wholesale business sales office is not maintained on the premises; and
 - 2. Poultry or livestock other than usual household pets are not housed or kept within 100 feet of any dwelling not on the same lot, nor on a lot less than one acre, nor having less than 10,000 feet per head of livestock.
- D. Any other use similar to the above and not listed elsewhere.

303.2 Conditional uses permitted

In an R-5 Zone the following conditional uses and their accessory uses are permitted subject to the provisions of Section 600:

- A. Temporary real estate office in a subdivision.
- B. Town house dwelling.
- C. Senior, retirement and handicapped housing.
- D. Manufactured homes.
- E. Manufactured home subdivision.
- F. Secondary dwelling unit.
- G. Any other use similar to the above and not listed elsewhere.

303.3 Standards

In an R-5 Zone the following standards shall apply:

- A. Lot size: Lot area shall be at least 5,000 square feet. For single-family attached and town house complexes the lot area shall be an average of at least 5,000 square feet per dwelling unit. Lot width shall be at least 50 feet. For interior single-family attached and town house units the lot width shall be at least 30 feet. Average lot depth shall be at least 80 feet.
- B. Front yard: A front yard shall be at least 20 feet.

SECTION 303 - RESIDENTIAL ZONE R-5

- C. Side yard: A side yard shall be at least 5 feet, and there shall be one additional foot of side yard for each 3 feet of height over 2 stories or 25 feet, whichever is less, except on corner lots a side yard shall be at least 15 feet on the side abutting the street. For interior, single-family attached and interior town house units, side yards are not required.
- D. Rear yard: A rear yard shall be at least 20 feet
- E. Yard abutting a major street: A yard abutting a major street listed in Section 410 shall be established in accordance with the standard set forth therein.
- F. Off-street parking and loading: As specified in Section 500.
- G. Height restriction: Maximum height of a structure shall be $2\frac{1}{2}$ stories or 35 feet, whichever is less.
- H. Lot coverage: Maximum area that may be covered by the dwelling structure and accessory buildings shall not exceed 35 percent of the total area of the lot.
- I. Minimum vegetation: Minimum area that must be left or planted in trees, grass, shrubs, barkdust for planting beds, etc. will be 25 percent of the total area of the lot.
- J. Transition area: A transition area shall be maintained according to Section 413.
- K. Access requirement: Every lot shall abut a public street other than an alley for at least 35 feet, except as provided in the Subdivision Ordinance. The lots for interior single-family attached units and town house units shall abut a public street for at least 20 feet.

304 RESIDENTIAL ZONE R-3

In an R-3 Zone the following regulations shall apply:

304.1 Outright uses permitted

In an R-3 Zone the following uses and their accessory uses are permitted outright:

- A. Single-family, detached dwelling.
- B. Agricultural or horticultural use, provided that:
 - 1. A retail or wholesale business sales office is not maintained on the premises; and
 - 2. Poultry or livestock other than usual household pets are not housed or kept within 100 feet of any dwelling not on the same lot, nor on a lot less than one acre, nor having less than 10,000 square feet per head of livestock.
- C. Single-family attached dwelling.
- D. Town house dwelling.
- E. Any other uses similar to the above and not listed elsewhere.

304.2 Conditional uses permitted

In an R-3 Zone the following conditional uses and their accessory uses are permitted subject to provisions of Section 600:

- A. Temporary real estate office in a subdivision.
- B. Boarding, lodging or rooming house.
- C. Senior, retirement and handicapped housing.
- D. Offices, studios, or clinics of accountants, architects, artists, attorneys, authors, writers, dentists, designers, engineers, investment counselors, landscape architects, management consultants, physicians, surgeons, psychologists, and others of a professional nature whose activities generate a minimal amount of traffic.
- E. Manufactured homes.
- F. Manufactured home subdivision.
- G. Multifamily condominium or apartment dwelling.
- H. Secondary dwelling unit.
- I. Any other uses similar to the above and not listed elsewhere.

304.3 Standards

In an R-3 Zone the following standards shall apply:

- A. Lot size: Lot area shall be at least 5,000 square feet. For single-family attached and town house complexes the lot area shall be an average of at least 5,000 square feet per dwelling unit. Lot width shall be at least 50 feet. For interior single-family attached and town house units the lot width shall be at least 30 feet. Average lot depth shall be at least 80 feet.
- B. Front yard: A front yard shall be at least 15 feet.
- C. Side yard: A side yard shall be at least 5 feet, and there shall be one additional foot of side yard for each 3 feet of height over two stories or 25 feet, whichever is less, except on corner lots a side yard shall be at least 15 feet on the side abutting the street. For interior single-family attached, town house and condominium units, side yards are not required.
- D. Rear yard: A rear yard shall be at least 15 feet.
- E. Yard abutting a major street: A yard abutting a major street listed in Section 410 shall be established in accordance with the standard set forth therein.
- F. Off-street parking and loading: As specified in Section 500.
- G. Height restriction: Maximum height of a structure shall be $2\frac{1}{2}$ stories or 35 feet, whichever is less.
- H. Lot coverage: Maximum area that may be covered by the dwelling structure and accessory buildings shall not exceed 40 percent of the total area of the lot.
- I. Minimum vegetation and open space: Minimum area that must be left or planted in trees, grass, shrubs, barkdust for planting beds, or left as open space or used as recreational area, etc. will be 35 percent of the total area of the lot. At least half of this area will be of the same general character as the area with dwelling units.
- J. Access requirements: Every lot shall abut a public street other than an alley for at least 35 feet, except as provided in the Subdivision Ordinance. Lots for interior single-family attached and town house units will abut a public street for at least 20 feet.
- K. Transition area: A transition area shall be maintained according to Section 413.

305 RESIDENTIAL ZONE R-2.5

In an R-2.5 Zone the following regulations shall apply:

305.1 Permitted uses

- A. Single-family dwelling.
- B. Single-family attached dwelling.
- C. Town house dwellings.
- D. Agricultural or horticultural uses, provided that:
 - 1. A retail or wholesale business sales office is not maintained on the premises; and
 - 2. Poultry or livestock other than usual household pets are not housed or kept within 100 feet of any dwelling not on the same lot, nor on a lot less than one acre, nor having less than 10,000 square feet per head of livestock.
- E. Any other use similar to the above and not listed elsewhere.

305.2 Conditional uses

- A. Boarding, lodging or rooming house.
- B. Senior, retirement and handicapped housing.
- C. Multifamily condominium or apartment.
- D. Manufactured homes.
- E. Manufactured home subdivision.
- F. Offices, studios, or clinics of accountants, architects, artists, attorneys, authors, writers, dentists, designers, engineers, investment counselors, landscape architects, management consultants, physicians, surgeons, psychologists, and others of a professional nature whose activities generate a minimal amount of traffic.
- G. Any other use similar to the above and not listed elsewhere.

305.3 Standards

In an R-2.5 Zone the following standards shall apply:

- A. Lot size: Single-family dwellings - 3,000 square feet.
Attached dwellings - 2,500 square feet average per unit.
- B. Lot dimensions: Width at building line, measured at front setback: 1) single-family dwelling - 40 feet; 2) attached dwellings - 25 feet. Depth for all types of uses - 75 feet.
- C. Set backs: Front yard - 15 feet. Side yard - A side yard shall be at least 5 feet, and there shall be one additional foot of side yard for each 3 feet of height over two stories or 25 feet, whichever is less, except on corner lots a side yard shall be at least 15 feet on the side abutting the street. For interior single-family attached, town houses and condominium units, side yards are not required.

SECTION 305 - RESIDENTIAL ZONE R-2.5

- D. Height of structure: Maximum height shall not exceed thirty-five (35) feet.
- E. Parking: As specified in Section 500.
- F. Lot coverage: 40% maximum.
- G. Minimum vegetation and open space: Thirty-five percent of the lot must be planted in trees, grass, shrubs, barkdust for planting beds, or left as open space, or used as recreational area. At least half of this area will be of the same general character as the area with the dwelling units.
- H. Access: Every lot shall abut a public street for at least 35 feet; except as provided in the Subdivision Ordinance, and attached residential lots which shall abut a public street for at least 20 feet.
- I. Transition area: A transition area shall be maintained according to Section 413.

SECTION 306 - RESIDENTIAL ZONE R-2

306 RESIDENTIAL ZONE R-2

In an R-2 Zone the following regulations shall apply:

306.1 Outright uses permitted

In an R-2 Zone the following uses and their accessory uses are permitted outright:

- A. Single-family detached dwelling.
- B. Agricultural or horticultural use, provided that:
 - 1. A retail or wholesale business sales office is not maintained on the premises; and
 - 2. Poultry or livestock other than usual household pets are not housed or kept within 100 feet of any dwelling not on the same lot, nor on a lot less than one acre, nor having less than 10,000 square feet per head of livestock.
- C. Single-family attached, town house, multifamily condominiums, multifamily apartment dwellings.
- D. Any other use similar to the above and not listed elsewhere.

306.2 Conditional uses permitted

In an R-2 Zone the following conditional uses and their accessory uses are permitted subject to the provisions of Section 600:

- A. Boarding, lodging or rooming house.
- B. Senior, retirement and handicapped housing.
- C. Offices, studios, or clinics of accountants, architects, artists, attorneys, authors, writers, dentists, designers, engineers, investment counselors, landscape architects, management consultants, physicians, surgeons, psychologists, and others of a professional nature whose activities generate a minimal amount of traffic, except in transitional areas.
- D. Hotel or motel.
- E. Manufactured homes
- F. Manufactured home subdivision.
- G. Marina
- H. Secondary dwelling unit
- I. Any other use similar to the above and not listed elsewhere.

306.3 Standards

In an R-2 Zone the following standards shall apply:

- A. Lot size: Lot area shall be at least 5,000 square feet. Lot area for the first dwelling unit shall be at least 5,000 square feet and there shall be not less than an average of 2,500 square feet for each dwelling unit over one. Lot width shall be at least 50 feet. For interior single-family

SECTION 306 - RESIDENTIAL ZONE R-2

attached, town house and condominium units lot width shall be at least 30 feet. Average lot depth shall be at least 80 feet. Single-family attached, town house, multifamily condominium, and multifamily apartment dwellings are permitted with less than 3,000 square feet per unit provided that traffic does not move through adjacent lower density areas.

- B. Front yard: A front yard shall be at least 15 feet.
- C. Side yard: A side yard shall be at least 5 feet, and there shall be one additional foot of side yard for each 3 feet of height over two stories or 25 feet, whichever is less, except on corner lots a side yard shall be at least 15 feet on the side abutting the street. For interior single-family attached, town house and condominium units, side yards are not required.
- D. Rear yard: A rear yard shall be at least 15 feet.
- E. Yard abutting a major street: A yard abutting a major street listed in Section 410 shall be established in accordance with the standard set forth therein.
- F. Off-street parking and loading: As specified in Section 500.
- G. Height restriction: Maximum height of a structure shall be three stories or 45 feet, whichever is less, but higher structures may be permitted under provisions of Section 707.
- H. Lot coverage: Maximum area that may be covered by the dwelling structure and accessory buildings shall not exceed 45 percent of the total area of the lot.
- I. Minimum vegetation and open space: Minimum area that must be left or planted in trees, grass, shrubs, barkdust for planting beds, or left as open space or used as recreational area, etc. will be 35 percent of the total area of the lot. At least half of this area will be of the same general character as the area with dwelling units.
- J. Access requirements: Every lot shall abut a public street other than an alley for at least 35 feet except as provided in the Subdivision Ordinance. Lots for interior single-family attached, town house and condominium units shall abut a public street for at least 20 feet.
- K. Transition area: A transition area shall be maintained according to Section 413.

307 RESIDENTIAL-BUSINESS OFFICE-COMMERCIAL ZONE R-1-B

In an R-1-B Zone the following regulations shall apply:

307.1 Outright uses permitted

In an R-1-B Zone the following uses and their accessory uses are permitted outright:

- A. Single-family detached dwelling.
- B. Agricultural or horticultural use, provided that:
 - 1. A retail or wholesale business sales office is not maintained on the premises; and
 - 2. Poultry or livestock other than usual household pets are not housed or kept within 100 feet of any dwelling not on the same lot, nor on a lot less than one acre, nor having less than 10,000 square feet per head of livestock.
- C. Single-family attached dwelling.
- D. Town house, condominium, multifamily condominium and multifamily apartment dwellings.
- E. Senior, retirement and handicapped housing.
- F. Offices, studios, or clinics of accountants, architects, artists, attorneys, authors, writers, dentists, designers, engineers, investment counselors, landscape architects, management consultants, physicians, surgeons, psychologists, and others whose activities generate a minimal amount of traffic.
- G. Offices of administrative, editorial, educational, executive, financial, governmental, philanthropic, insurance, real estate, religious, research, scientific or statistical organizations whose activities generate a minimal amount of traffic.
- H. Any other use similar to the above and not listed elsewhere.

307.2 Conditional uses permitted

In an R-1-B Zone the following conditional uses and their accessory uses are permitted subject to the provisions of Section 600:

- A. Temporary real estate office in a subdivision
- B. Boarding, lodging or rooming house.
- C. Hotel or motel.
- D. Manufactured homes.
- E. Manufactured home subdivision.
- F. Marina.
- G. Any other use similar to the above and not listed elsewhere.

307.3 Standards

In an R-1-B Zone the following standards shall apply:

- A. Lot size: Lot area shall be at least 5,000 square feet. Lot area for the first dwelling unit shall be at least 5,000 square feet and for each dwelling unit over one there shall be not less than an average of 1,400 square feet. Lot width shall be at least 50 feet. For interior single family attached town house and condominium units this lot width shall be at least 30 feet. The residential density may be increased 15 percent over the above limits in exchange for exception design quality or special project amenity according to the provisions of Section 708.
- B. Front yard: A front yard shall be at least 15 feet.
- C. Side yard: A side yard shall be at least 5 feet, and there shall be one additional foot of side yard for each 3 feet of height over two stories or 25 feet, whichever is less, except on corner lots a side yard shall be at least 15 feet on the side abutting the street.
- D. Rear yard: A rear yard shall be at least 15 feet.
- E. Yard abutting a major street: A yard abutting a major street listed in Section 410 shall be established in accordance with the standard set forth therein.
- F. Off-street parking and loading: As specified in Section 500.
- G. Height restriction: Maximum height of a structure shall be three stories or 45 feet, whichever is less, but higher structures may be permitted under provisions of Section 707.
- H. Lot coverage: maximum area that may be covered by the principal structure and accessory buildings shall not exceed 50 percent of the total area of the lot.
- I. Minimum vegetation: Minimum area that must be left or planted in trees, grass, shrubs, etc. shall be 15 percent of the total area of the lot.
- J. Access requirement: Every lot shall abut a public street other than an alley for at least 35 feet except as provided in the Subdivision Ordinance. Lots for interior single-family attached town house and condominium units shall abut a public street for at least 20 feet.
- K. Transition area: A transition area shall be maintained according to Section 413.

SECTION 308 - RESIDENTIAL ZONE R-1

308 RESIDENTIAL ZONE R-1

In an R-1 Zone the following regulations shall apply:

308.1 Outright uses permitted

In an R-1 Zone the following uses and accessory uses are permitted outright:

- A. Single-family detached dwelling.
- B. Agricultural or horticultural use, provided that:
 - 1. A retail or wholesale business sales office is not maintained on the premises; and
 - 2. Poultry or livestock other than usual household pets are not housed or kept within 100 feet of any dwelling not on the same lot, nor on a lot less than one acre, nor having less than 10,000 square feet per head of livestock.
- C. Single-family attached, town house, multifamily condominium, multifamily apartment dwelling.

The above type dwellings are permitted with less than 3,000 square feet per unit provided that traffic does not move through adjacent lower density areas.
- D. Senior, retirement and handicapped housing.
- E. Any other use similar to the above and not listed elsewhere.

308.2 Conditional uses permitted

In an R-1 Zone the following conditional uses and their accessory uses are permitted subject to the provisions of Section 600:

- A. Temporary real estate office in a subdivision.
- B. Boarding, lodging or rooming house.
- C. Offices, studios, or clinics of accountants, architects, artists, attorneys, authors, writers, dentists, designers, engineers, investment counselors, landscape architects, management consultants, physicians, surgeons, psychologists, and others of a professional nature whose activities generate a minimal amount of traffic, except in transitional areas.
- D. Hotel or motel.
- E. Manufactured homes
- F. Manufactured home subdivision.
- G. Marina.
- H. Any other use similar to the above and not listed elsewhere.

308.3 Standards

In an R-1 Zone the following standards shall apply:

- A. Lot size: Lot area shall be at least 5,000 square feet. Lot area for the first dwelling unit shall be at least 5,000 square feet and there shall be not less than 1,400 square feet for each dwelling unit over one. Lot width shall be at least 50 feet. Lot width for single-family attached, town house and condominium units shall be at least 30 feet. Average lot depth shall be at least 80 feet. Single-family attached, town house, multifamily condominium, multifamily apartment dwellings are permitted with less than 3,000 square feet per unit provided that traffic does not move through adjacent lower density areas.
- B. Front yard: A front yard shall be at least 15 feet.
- C. Side yard: A side yard shall be at least 5 feet, and there shall be one additional foot of side yard for each 3 feet of height over two stories or 25 feet, whichever is less, except on corner lots a side yard shall be at least 15 feet on the side abutting the street. For interior single-family attached, town house and condominium units, side yards are not required.
- D. Rear yard: A rear yard shall be at least 15 feet.
- E. Yard abutting a major street: A yard abutting a major street listed in Section 410 shall be established in accordance with the standard set forth therein.
- F. Off-street parking and loading: As specified in Section 500.
- G. Height restriction: Maximum height of a structure shall be three stories or 45 feet, whichever is less, but higher structures may be permitted under provisions of Section 707.
- H. Lot coverage: Maximum area that may be covered by the dwelling structure and accessory buildings shall not exceed 45 percent of the total area of the lot.
- I. Minimum vegetation and open spaces: Minimum area that must be left or planted in trees, grass, shrubs, barkdust for planting beds, or left as open space or used as recreational area, etc. will be 35 percent of the total area of the lot. At least half of this area will be of the same general character as the area with dwelling units.
- J. Access requirements: Every lot shall abut a public street other than an alley for at least 35 feet except as provided in the Subdivision Ordinance. Lots for interior single-family attached, town house and condominium units shall abut a public street for at least 20 feet.
- K. Transition area: A transitional area shall be maintained according to Section 413.
- L. Use restrictions: Authorized commercial uses are permitted on the ground floor only. Office uses are permitted on the ground level and first floor. At least fifty (50) percent of the floor area within a project shall be used for residential purposes.

309 RESIDENTIAL-OFFICE-COMMERCIAL ZONE R-O-C

In an R-O-C Zone, the following regulations shall apply:

309.1 Outright uses permitted

In an R-O-C Zone the following uses and their accessory uses are permitted outright:

- A. Single-family attached dwelling.
- B. Single-family attached and town house dwelling.
- C. Multifamily condominium dwelling.
- D. Multifamily apartment dwelling.
- E. Senior retirement and handicapped housing.
- F. Offices.
- G. Retail trade establishment such as a food store, drugstore, gift shop, hardware store selling primarily from a shelf-goods inventory.
- H. Personal service business such as a barber shop, tailor shop or laundry and dry cleaning pick-up station.
- I. Funeral home.
- J. Commercial recreation and motion picture theater.
- K. Eating establishment.
- L. Hotel or motel.
- M. Parking facility.
- N. Repair, maintenance or service of the type of goods to be found in any permitted retail trade establishment.
- O. Financial institution.
- P. Trade or commercial school.
- Q. Department or furniture store.
- R. Any other use similar to the above and not listed elsewhere.

309.2 Conditional uses permitted

In an R-O-C Zone the following conditional uses and their accessory uses are permitted subject to the provisions of Section 600:

- A. Boarding, lodging or rooming house.
- B. Manufactured homes.
- C. Manufactured home subdivision.
- D. Any other use similar to the above and not listed elsewhere.

309.3 Standards

In an R-O-C Zone the following standards shall apply:

- A. Lot size: Lot area shall be at least 5,000 square feet. Lot area for the first dwelling unit shall be at least 5,000 square feet and for dwelling units over one there shall be not less than an average of 1,400 square feet. Lot width shall be at least 50 feet. Lot width for interior single-family attached, town house and condominium units shall be at least 30 feet. Average lot depth shall be at least 80 feet. The residential density may be increased 15 percent over the above limit in exchange for exceptional design quality or special project amenity as determined by the Planning Commission according to the provisions of Section 708.
- B. Front yard: A front yard shall be at least 15 feet.
- C. Side yard: A side yard shall be at least 5 feet, and there shall be one additional foot of side yard for each 3 feet of height over two stories or 25 feet, whichever is less, except on corner lots a side yard shall be at least 15 feet on the side abutting the street. For interior single-family attached, town house and condominium units, side yards are not required.
- D. Rear yard: A rear yard shall be at least 15 feet.
- E. Yard abutting a major street: A yard abutting a major street listed in Section 410 shall be established in accordance with the standard set forth therein.
- F. Off-street parking and loading: As specified in Section 500.
- G. Height restriction: Maximum height of a structure shall be three stories or 45 feet, whichever is less, but higher structures may be permitted under provisions of Section 707.
- H. Use restrictions: Authorized commercial uses are permitted on the ground floor only. Office uses are permitted on the ground level and first floor. At least fifty (50) percent of the floor area within a project shall be used for residential purposes.
- I. Lot coverage: Maximum area that may be covered by the principal structure and accessory buildings shall not exceed 50 percent of the total area of the lot.
- J. Minimum vegetation: Minimum area that must be left or planted in trees, grass, shrubs, barkdust for planting beds, etc., shall be 15 percent of the total area of the lot.
- K. Access requirement: Every lot shall abut a public street other than an alley for at least 35 feet except as provided in the Subdivision Ordinance. Lots for interior single-family attached, town house and condominium units shall abut a public street for at least 20 feet.
- L. Transition area: A transition area shall be maintained according to Section 413.

SECTION 309 - RESIDENTIAL-OFFICE-COMMERCIAL ZONE R-O-C

309.4 Prohibited uses

The following uses and their accessory uses are prohibited:

- A. Adult entertainment business.

SECTION 310 - NEIGHBORHOOD COMMERCIAL ZONE C-N

310 NEIGHBORHOOD COMMERCIAL ZONE C-N

In a C-N Zone the following regulations shall apply:

310.1 Outright uses permitted

In a C-N Zone the following uses and their accessory uses are permitted outright:

- A. No uses permitted outright.

310.2 Conditional uses permitted

In a C-N Zone the following conditional uses and their accessory uses are permitted subject to the provisions of Section 600:

- A. A food store not exceeding 2,500 square feet of floor area.
- B. A store providing convenience goods and services for a local area.
- C. Laundry.
- D. Eating establishment.
- E. Any other use similar to the above and not listed elsewhere.

310.3 Standards

In a C-N Zone the following standards shall apply:

- A. Lot size: Lot area shall be at least 5,000 square feet but not greater than 25,000 square feet. Lot width shall be at least 50 feet. Average lot depth shall be at least 80 feet.
- B. Front yard: A front yard shall be at least 15 feet.
- C. Side yard: A side yard shall be at least 5 feet, and there shall be one additional foot of side yard for each 3 feet of height over two stories or 25 feet, whichever is less, except on corner lots a side yard shall be at least 15 feet on the side abutting the street.
- D. Rear yard: A rear yard shall be at least 10 feet.
- E. Yard abutting a major street: A yard abutting a major street listed in Section 410 shall be established in accordance with the standard set forth therein.
- F. Off-street parking and loading: As specified in Section 500.
- G. Height restriction: Maximum height of a structure shall be $2\frac{1}{2}$ stories or 35 feet, whichever is less.
- H. Lot coverage: Maximum area that may be covered by the dwelling structure and accessory buildings shall not exceed 40 percent of the total area of the lot.
- I. Minimum vegetation: Minimum area that must be left or planted in trees, grass, shrubs, etc. shall be 20 percent of the total area of the lot.
- J. Screening: Neighborhood commercial uses must be screened from adjacent residential uses.

SECTION 310 - NEIGHBORHOOD COMMERCIAL ZONE C-N

- K. Access requirement: Every lot shall abut a public street other than an alley for at least 35 feet.

310.4 Prohibited uses

The following uses and their accessory uses are prohibited:

- A. Adult entertainment business.

SECTION 311 - LIMITED COMMERCIAL ZONE C-L

311 LIMITED COMMERCIAL ZONE C-L

In a C-L Zone the following regulations shall apply:

311.1 Outright uses permitted

In a C-L Zone the following uses and their accessory uses are permitted outright:

- A. Offices, studios, or clinics of accountants, architects, artists, attorneys, authors, writers, dentists, designers, engineers, investment counselors, landscape architects, management consultants, physicians, surgeons, psychologists and others of a professional nature.
- B. Offices of administrative, editorial, educational, executive, financial, governmental, philanthropic, insurance, real estate, religious, research, scientific or statistical organizations.
- C. Retail trade establishment such as a food store, drugstore, gift shop, hardware store, selling primarily from a shelf-goods inventory.
- D. Personal service business such as a barber shop, tailor shop or laundry and dry cleaning pick-up station.
- E. Any other use similar to the above and not listed elsewhere.

311.2 Conditional uses permitted

In a C-L Zone the following conditional uses and their accessory uses are permitted subject to the provisions of Section 600:

- A. Funeral home.
- B. Marina and boat sales.
- C. Parking facility.
- D. Repair, maintenance, or service of the type of goods to be found in any permitted retail trade establishment.
- E. Financial institution.
- F. Trade or commercial school.
- G. Single-family detached dwelling.
- H. Agricultural or horticultural use, provided that poultry or livestock other than usual household pets are not housed or kept within 100 feet of any dwelling not on the same lot, nor on a lot less than one acre, nor having less than 10,000 square feet per head of livestock.
- I. Single-family attached dwelling, town house dwelling, multifamily apartment and condominium dwelling.
- J. Senior, retirement and handicapped housing.
- K. High-impact commercial, except adult entertainment businesses.
- L. Any other use similar to the above and not listed elsewhere.

SECTION 311 - LIMITED COMMERCIAL ZONE C-L

311.3 Standards

In a C-L Zone the following standards shall apply:

- A. Lot size: None, except as follows for dwelling: Lot area shall be at least 5,000 square feet. Lot area for the first dwelling unit shall be at least 5,000 square feet and for dwelling units over one there shall be not less than an average of 1,000 square feet. Lot width shall be at least 50 feet. Lot width for interior single-family attached, town house and condominium units shall be at least 30 feet. Average lot depth shall be at least 80 feet.
- B. Front yard: None, except as provided in subsections 311.3.E and 311.3.F below.
- C. Side yard: None, except as provided in subsections 311.3.E and 311.3.F below.
- D. Rear yard: None, except as provided in subsections 311.3.E and 311.3.F below.
- E. Yard abutting a major street: A yard abutting a major street listed in Section 410 shall be established in accordance with the standards set forth therein.
- F. Transition area: A transition area shall be maintained according to Section 413.
- G. Access: Entrances from a public street to properties in this zone shall be located to minimize traffic congestion and avoid directing traffic onto residential streets. Every lot shall abut a public street other than an alley for at least 35 feet except as permitted under the Subdivision Ordinance. Lots for interior single-family attached, town house and condominium units shall abut a public street for at least 20 feet.
- H. Off-street parking and loading: As specified in Section 500.
- I. Height restriction: Maximum height of any structure shall be three stories or 45 feet, whichever is less, but higher structures may be permitted, under provisions of Section 707.
- J. Open use: A use not contained within an enclosed building, such as open storage, abutting or facing a residential zone, shall be screened with a sight-obscuring fence not less than 6 feet high.
- K. Minimum vegetation: Minimum area that must be left or planted in trees, grass, shrubs, barkdust for planting beds, etc., shall be 15 percent of the total area of the lot.

311.4 Prohibited uses

The following uses and their accessory uses are prohibited:

- A. Adult entertainment businesses.

312 CENTRAL COMMERCIAL ZONE C-C

In a C-C Zone the following regulations shall apply:

312.1 Outright uses permitted

In a C-C Zone the following uses and their accessory uses are permitted outright:

- A. Offices, studios, or clinics of accountants, architects, artists, attorneys, authors, writers, dentists, designers, engineers, investment counselors, landscape architects, management consultants, physicians, surgeons, psychologists, and others of a professional nature.
- B. Offices of administrative, editorial, educational, executive, financial, governmental, philanthropic, insurance, real estate, religious, research, scientific or statistical organizations.
- C. Retail trade establishment such as a food store, drugstore, gift shop, hardware store, selling primarily from a shelf-goods inventory.
- D. Personal service business such as a barber shop, tailor shop or laundry and dry cleaning pick-up station.
- E. Department or furniture store.
- F. Repair, maintenance or service of the types of goods to be found in any permitted retail trade establishment.
- G. Eating establishment.
- H. Financial institution.
- I. Any other use similar to the above and not listed elsewhere.

312.2 Conditional uses permitted

In a C-C Zone the following conditional uses and their accessory uses are permitted subject to the provisions of Section 600:

- A. A use permitted outright in this zone with drive-in service facilities, but not including a drive-in theater.
- B. Parking facility.
- C. Trade or commercial school.
- D. Automobile service stations and automobile and motor vehicle repair (excluding body and fender repair and painting) when in conjunction with an automobile service station and conducted within a completely enclosed building.
- E. Agricultural or horticultural use, provided that poultry or livestock other than usual household pets are not housed or kept within 100 feet of any dwelling not on the same lot, nor on a lot less than one acre, nor having less than 10,000 square feet per head of livestock.
- F. High-impact commercial, except adult entertainment businesses.
- G. Any other use similar to the above and not listed elsewhere.

SECTION 312 - CENTRAL COMMERCIAL ZONE C-C

312.3 Standards

In a C-C Zone the following standards shall apply:

- A. Lot size: None. Lot width shall be at least 50 feet. Average lot depth shall be at least 80 feet.
- B. Front yard: None, except as provided in subsections 312.3.E and 312.3.F below.
- C. Side yard: None, except as provided in subsections 312.3.E and 312.3.F below.
- D. Rear yard: None, except as provided in subsections 312.3.E and 312.3.F below.
- E. Yard abutting a major street: A yard abutting a major street listed in Section 410 shall be established in accordance with the standards set forth therein.
- F. Transition area: A transition area shall be maintained according to Section 413.
- G. Access: Entrances from a public street to properties in this zone shall be located to minimize traffic congestion and avoid directing traffic onto residential streets. Every lot shall abut a public street other than an alley for at least 35 feet.
- H. Off-street parking and loading: As specified in Section 500.
- I. Height restriction: Maximum height of a structure shall be four stories or 60 feet, whichever is less, but higher structures may be permitted if approved by the Planning Commission after a public hearing as provided in subsection 1011.3 under provisions of Section 707.
- J. Lot coverage: Maximum area that may be covered by buildings and structures shall not exceed 85 percent of the total area of the lot.
- K. Open use: A use not contained within an enclosed building, such as open storage, abutting or facing a residential zone, or which would be visible from a public street shall be screened with a sight-obscuring fence not less than 6 feet.
- L. Minimum vegetation: Minimum area that must be left or planted in trees, grass, shrubs, bark dust for planting beds, etc., shall be 15 percent of the total area of the lot.

312.4 Prohibited uses

The following uses and their accessory uses are prohibited:

- A. Adult entertainment business.

313 GENERAL COMMERCIAL ZONE C-G

In a C-G Zone the following regulations shall apply:

313.1 Outright uses permitted

In a C-G Zone the following uses and their accessory uses are permitted outright:

- A. Offices, studios, or clinics of accountants, architects, artists, attorneys, authors, writers, dentists, designers, engineers, investment counselors, landscape architects, management consultants, physicians, surgeons, psychologists, and others of a professional nature.
- B. Offices of administrative, editorial, educational, executive, financial, governmental, philanthropic, insurance, real estate, religious, research, scientific or statistical organizations.
- C. Retail trade establishment such as a food store, drugstore, gift shop, hardware store, selling primarily from a shelf-goods inventory.
- D. Personal service business such as a barber shop, tailor shop or laundry and dry cleaning pick-up station.
- E. A use permitted outright in this zone with drive-in service facilities.
- F. Funeral home.
- G. Eating establishment.
- H. Marina.
- I. Parking facility.
- J. Repair, maintenance or service of the type of goods to be found in any permitted retail trade establishment.
- K. Financial institution.
- L. Trade or commercial school.
- M. Department or furniture store.
- N. Automobile, boat, trailer, or other vehicle or equipment sales and service.
- O. Car wash.
- P. Carpenter or cabinet shop.
- Q. Furniture upholstering.
- R. Building materials supply.
- S. Plumbing, heating, ventilation or electrical shop.
- T. Printing plant.
- U. Repair garage.
- V. Automobile service station.

SECTION 313 - GENERAL COMMERCIAL ZONE C-G

- W. Sign painting shop.
- X. Tire shop.
- Y. Any other use similar to the above and not listed elsewhere.

313.2 Conditional uses permitted

In a C-G Zone the following conditional uses and their accessory uses are permitted subject to the provisions of Section 600:

- A. Animal hospital or boarding kennel.
- B. Auditorium or stadium.
- C. Contractor's storage yard.
- D. Sheet metal shop.
- E. Agricultural or horticultural use, provided that poultry or livestock other than usual household pets are not housed or kept within 100 feet of any dwelling not on the same lot, nor on a lot less than one acre, nor having less than 10,000 square feet per head of livestock.
- F. Drinking establishment.
- G. High-impact commercial, except adult entertainment businesses.
- H. Any other use similar to the above and not listed elsewhere.

313.3 Standards

In a C-G Zone the following standards shall apply:

- A. Lot size: None. Lot width shall be at least 50 feet. Average lot depth shall be at least 80 feet.
- B. Front yard: None, except as provided in subsections 313.3.E and 312.3.F below.
- C. Side yard: None, except as provided in subsections 313.3.E and 312.3.F below.
- D. Rear yard: None, except as provided in subsections 313.3.E and 312.3.F below.
- E. Yard abutting a major street: A yard abutting a major street listed in Section 410 shall be established in accordance with the standards set forth therein.
- F. Transition area: A transition area shall be maintained according to Section 413.
- G. Access: Entrances from a public street to properties in this zone shall be located to minimize traffic congestion and avoid directing traffic onto residential streets. Every lot shall abut a public street other than an alley for at least 35 feet.
- H. Off-street parking and loading: As specified in Section 500.

SECTION 313 - GENERAL COMMERCIAL ZONE C-G

- I. Height restriction: Maximum height of a structure shall be three stories or 45 feet, whichever is less, but higher structures may be permitted if approved by the Planning Commission after a public hearing as provided in subsection 1011.3, under provisions of Section 707.
- J. Lot coverage: Maximum area that may be covered by buildings and structures shall not exceed 85 percent of the total area of the lot.
- K. Open use: A use not contained within an enclosed building, such as open storage, abutting or facing a residential zone, or which would be visible from a public street shall be screened with a sight-obscuring fence not less than 6 feet high.

Except for open storage, the following uses shall be conducted within an enclosed building:

- 1. Carpenter or cabinet shop.
 - 2. Furniture upholstering.
 - 3. Plumbing shop.
 - 4. Repair garage.
 - 5. Sign painting shop.
 - 6. Tire shop.
 - 7. Heating or ventilation shop.
- L. Minimum vegetation: Minimum area that must be left or planted in trees, grass, shrubs, bark dust for planting beds, etc., shall be 15 percent of the total area of the lot.

313.4 Prohibited uses

The following uses and their accessory uses are prohibited:

- A. Adult entertainment business.

314 MANUFACTURING ZONE M

Statement of purpose: The purpose of this Manufacturing Zone is to promote clean, employee-intensive industries which may also include related accessory uses, such as commercial and office uses, which serve the industrial area.

314.1 Permitted uses are limited to industrial uses meeting the following criteria:

- A. Any combination of manufacturing, office and/or commercial uses are allowed when at least 25% of the total project involves an industrial use as described under subsection 314.1.B. The combined uses shall provide at least 10 employees per acre.
- B. A use which involves the collection and assembly of durable goods, warehousing of goods, transshipment of goods from other sources, and/or the assembly of goods from products which have been processed elsewhere, general manufacturing and production.
- C. Commercial and office uses which are accessory to the industrial use(s). Such uses may include gymnasium, health club, secretarial services, sandwich deli, small restaurant and retail/wholesale commercial use and showroom.
- D. May produce small amounts of noise, dust, vibration or glare, but may not produce off-site impacts that create a nuisance, as defined by DEQ or the City Noise Ordinance.
- E. Has access to a collector or arterial street.
- F. Provision for sidewalks and mass transit facilities (i.e. bus stop shelter, trash receptacle, benches) shall be made.
- G. A permitted use may require outside storage areas. These storage areas shall be screened with a sight-obscuring fence or dense plantings from any adjoining residential uses or public streets.
- H. Warehouse use which is accessory to an industrial use.

314.2 Prohibited uses

- A. Any use which has a primary function of storing, utilizing or manufacturing explosive materials or other hazardous material as defined by the Uniform Fire Code, Article 80.
- B. New residential construction; churches; public schools.

314.3 Authority and appeal of Administrative decisions

If the Community Development Director has any questions regarding the applicant's ability to meet the criteria in subsection 314.1, the request may be scheduled for review by the Planning Commission. In addition, a member of the public may appeal a use administratively approved or denied by the Community Development Director to the Planning Commission. See Section 1001 for appeal procedures.

314.4 Conditional uses

A. Natural resource extraction

Open pit and gravel excavating or processing shall not be permitted nearer than 50 feet to the boundary of an adjoining property line, unless written consent of the owner of such property is first obtained. Excavating or processing shall not be permitted closer than 30 feet to the right-of-way line of an existing platted street or an existing public utility right-of-way.

An open pit or sand and gravel operation shall be enclosed by a fence suitable to prevent unauthorized access.

A rock crusher, washer, or sorter, shall not be located nearer than 500 feet to a residential or commercial zone. Surface mining equipment and necessary access roads shall be constructed, maintained and operated in such a manner as to eliminate, as far as is practicable, noise, vibration or dust which is injurious or substantially annoying to persons living in the vicinity.

B. High-impact commercial uses

When considering a high-impact commercial use, the Commission shall consider the following:

1. Nearness to dwellings, churches, hospitals, or other uses which require a quiet environment.
2. Building entrances, lighting, exterior signs, and other features which could generate or be conducive to noise or other disturbance for adjoining uses.
3. Parking vehicles and pedestrian access and circulation could contribute to noise or attract habitual assembly or unruly persons.
4. Hours of operation.
5. In addition to consideration of the above with respect to building and site design, the Planning Commission may attach conditions or standards of performance and impact, and methods for monitoring and evaluating these, to insure that such establishments do not become unduly or unnecessarily disruptive.

In addition, when considering an adult entertainment business, the following criteria shall be used: The proposed location of an adult entertainment business shall not be within 500 feet of an existing or previously approved adult entertainment business or within 500 feet of either a public park, a church, a day-care center, a primary, elementary, junior high or high school or any residentially zoned property, both of which distances shall be measured in a straight line, without regard to intervening structures, between the closest structural wall of the adult entertainment business and either the closest property line of the impacted property or the closest structural wall of any preexisting or previously approved adult entertainment business.

SECTION 314 - MANUFACTURING ZONE M

314.5 Site development requirements

A.	Setbacks:	Front	20 feet
		Side	None*
		Corner side yard	10 feet
		Rear	None*

*Except when abutting a residential district, in which case the setback shall match the abutting property.

B. Height: 45 feet

C. Parking and loading: See Section 500

D. Landscaping

Fifteen percent landscaping of the site is required. A variety of trees, shrubbery and ground cover is encouraged. Street trees are required along street frontages and within parking lots to help delineate entrances, provide shade and permeable areas for storm water runoff. A bond or a financial guarantee of performance will be required.

E. Site access: One curb cut (45 feet maximum) per 150 feet of street frontage.

F. Transition area

When the industrial development is adjacent to and within 120 feet of areas zone for residential uses, the following characteristics will be considered:

1. Noise
2. Lighting
3. Hours of operation
4. Delivery and shipping
5. Height of structure
6. Distance to residential zone boundary

The Commission may attach conditions to reduce any potentially adverse impacts to residential properties.

315 COMMUNITY SHOPPING COMMERCIAL ZONE C-CS

In a C-CS Zone the following regulations shall apply:

315.1 Uses

Development shall be a community-scale shopping center.

- A. Such center shall include at least three out of the four following uses:
 - 1. Department store uses.
 - 2. Drug and/or variety store uses.
 - 3. Food supermarket.
 - 4. Retail specialty shops.
- B. Such center may include the following additional uses:
 - 1. Eating and drinking establishment.
 - 2. Financial institution.
 - 3. Entertainment use (theater, etc.).
 - 4. Personal service businesses.
 - 5. Repair, service, or maintenance of goods authorized in this district.
 - 6. Offices, clinics, or trade schools, provided no more than 15% of the total floor space of the center is devoted to such uses.
 - 7. Any other uses determined by the Planning Commission to be similar and compatible to the above-listed uses.
- C. Uses prohibited shall be: industrial, warehousing, vehicular sales or service, motels, adult entertainment business, machinery sales or repair, contractor's office, and similar uses as determined by the Planning Commission.

315.2 Scale

The minimum size of the community-scale shopping center shall be 200,000 gross leasable square feet. Construction of the center may be phased, however, and the first phase must be at least 140,000 square feet. If construction is phased, all phases must be completed in three (3) years.

315.3 Procedure

- A. Application review; minimum requirements:
 - 1. Site development plan showing site and adjacent streets, access, parking, circulation, landscaped areas, location of buildings, location of pedestrian walkways, location of utilities, service areas, loading areas, lighting, utilities and public facilities.
 - 2. Landscaping plan showing size, species and location of plant materials, irrigation system, site contouring.

SECTION 315 - COMMUNITY SHOPPING COMMERCIAL ZONE C-CS

3. Preliminary architectural plans indicating floor plans, elevations, building orientation and signing.
 4. Phasing plan, if proposed.
 5. Detailed traffic report, analyzing existing traffic, traffic generation, turning movements and impact on adjacent streets. Report shall recommend roadway improvements needed to mitigate impacts.
 6. Proposed on- and off-site improvements to the remaining public facilities (water, sanitary sewer and storm sewer).
- B. The Community Development Director shall forward the proposed application to the State Highway Division of the Department of Transportation, Tri-Met, to the City Public Works Director, City Fire Chief, City Police Chief, and any other applicable review agency. In addition, the application shall be entered on the Planning Commission's next available agenda. Reviewers shall have 15 working days to respond in writing.

The Planning Commission shall hold a public hearing as provided in Section 1011. The Planning Commission shall review the application against the approval criteria. The Commission shall issue a notice of decision with findings and conditions.

The notice of decision shall be forwarded to the applicant and all reviewing agencies. A decision may be appealed as provided in Section 1002.

315.4 Criteria for approval

An application for development will be approved if it meets the following criteria:

- A. It complies with the application requirements under Section 315.3.A above,
- B. It meets the scale requirements of Section 315.2 above,
- C. It meets the use requirements of Section 315.1 above,
- D. It meets the development standards of Section 315.5 below,
- E. The site plan and building orientation/design shall address the following guidelines:
 1. Create an aesthetically pleasing development by the use of quality materials and the arrangement of buildings, landscaping, and parking,
 2. Relate functionally to the site, surroundings, and internally,
 3. Be designed to maximize safety and convenience, for the motorist and pedestrian,
 4. Be designed to consider crime prevention techniques,
 5. Signs shall be integrated into the design of the center.

315.5 Development standards

A. Setbacks (minimum) from property line:

1. Along Hwy. 224: 30 feet.
2. Along Oak Street: 40 feet.
3. Along 37th Street: 20 feet.
4. From other property lines: 5 feet.

B. Heights (maximum):

Three stories or 45 feet, whichever is less.

C. Access:

1. Maximum of two (2) curb cuts along Oak St. frontage.
2. Maximum of three (3) curb cuts along 37th St. frontage.
3. Location of access points to be approved by the Public Works Director, after consultation with the State Highway Division.

D. Landscaping:

1. A minimum of 20% of the net site area shall be landscaped. Net site area is gross site area minus right-of-way (R-O-W) dedications.
2. All setback areas to be landscaped.
3. A landscaped berm on the Hwy. 224 and Oak St. frontages shall be installed. The berm shall be designed to provide visual relief from the parking and activity areas of the center. The berm may be 'tapered' down on either side of access drives.
4. An irrigation system shall be installed for the landscaped areas.
5. Trees (minimum 6 feet high at time of planting) shall be planted, at least one every 50 feet, along the bermed landscaped areas adjacent to streets.
6. "Landscaped" shall mean a combination of ground cover, shrubbery and trees installed to form a unified landscape.
7. A bond or financial guarantee of performance will be required.

E. Utilities:

All utilities (electric, gas, telephone) shall be installed underground.

F. Transit:

Reserve areas for transit facilities (bus turn-out, shelter, benches, station, etc.) for the use of mass transit if requested by Tri-Met in their review of the project.

SECTION 315 - COMMUNITY SHOPPING COMMERCIAL ZONE C-CS

G. Public facilities:

All necessary public facilities (water, sanitary sewer, storm sewer, streets) must be improved to meet City and State standards.

H. Parking requirements of Section 500.

I. Design standards:

1. Roof-mounted mechanical equipment shall be screened from view,
2. Loading and delivery areas should be separated from parking and pedestrian areas,
3. A minimum of eighty percent of the floor space shall be designed as an enclosed mall (where access from one store to another is possible without walking outside). Alternatively, a pedestrian walkway covering is permitted, if designed to shelter pedestrians from inclement weather.
4. Outdoor trash or delivery areas are screened from the public's view.

SECTION 316 - AIRCRAFT LANDING FACILITY ZONE L-F

316 AIRCRAFT LANDING FACILITY ZONE L-F

In an L-F Zone the following regulations shall apply:

316.1 Purpose

The purpose of the L-F Zone is to minimize hazards related to aircraft landing facilities. Special height limitations or other restrictions in addition to those already embodied in this Ordinance may be necessary in order to prevent the establishment of obstructions to the air space required by aircraft in landing and taking off from airports, helicopter pads or other landing fields. Furthermore, establishment of any new aircraft landing facility should be undertaken only after an evaluation has been made of its effects on the safety, welfare, and property values of owners or occupants of nearby property. The L-F Zone is a superimposed zone applied in combination with existing regular zones.

316.2 Limitations on use

In an L-F Zone an airport, helicopter, or other aircraft landing facility and a use or conditional use permitted in accordance with the provisions of the preestablished regular zone shall be permitted only as provided below:

- A. The height of any structure or part of structure, such as chimney, tower, antenna, etc., shall be limited according to requirements established by the Planning Commission or by other appropriate authorities.
- B. In approach zones to airports or other aircraft landing facilities, as designated by the Planning Commission or other appropriate authorities, no meeting place which is designed to accommodate more than 25 persons at one time shall be permitted.
- C. The size of the property upon which the airport or landing facility is proposed shall be sufficient to permit the safe operation of aircraft, to allow adequate space for all associated facilities and to protect adjacent property from the impact of aircraft operation and associated activity.
- D. Prior to a decision on the establishment of an L-F Zone the Planning Commission shall request a report and recommendation from the Oregon State Board of Aeronautics as to the suitability of the particular property for airport purposes and as to other conditions which might be necessary to safeguard the safety and general welfare of the public.

316.3 Procedures

The following procedures shall govern the application of L-F Zones.

- A. An L-F Zone may be established, altered, or abolished subject to the provisions of Section 900.
- B. An L-F Zone may be established in combination with other regular zones, an area approved as an L-F Zone shall be identified on the Zoning Map or Map amendments with the letters "L-F" in addition to the abbreviated designation of the existing zoning.

SECTION 317 - FOR FUTURE USE

317

SECTION 318 - FOR FUTURE USE

318

319 PLANNED DEVELOPMENT ZONE PD

In a Planned Development Zone the following regulations shall apply:

319.1 Purpose

The purpose of a PD Planned Development Zone is:

- A. To provide a more desirable environment than is possible through the strict application of Zoning Ordinance requirements;
- B. To encourage greater flexibility of design and the application of new techniques in land development;
- C. To provide a more efficient, aesthetic and desirable use of public and private common open space; and,
- D. To promote variety in the physical development pattern of the City.
- E. To encourage a mix of housing types and to allow a mix of residential and other land uses.

319.2 Use

A planned development approved by the City council and based on a final development planned and program shall constitute the Planned Development Zone. The PD Zone is a superimposed zone applied in combination with regular existing zones. A PD Zone shall be comprised of such combinations of types of dwellings and other structures and uses as shall be authorized by the Council, but the Council shall authorize only those types of dwellings and other structures and uses as will:

- A. Conform to the City's Comprehensive Plan.
- B. Form a compatible and harmonious group.
- C. Be suited to the capacity of existing and proposed community utilities and facilities.
- D. Be cohesively designed and consistent with the protection of public health, safety and welfare in general.
- E. Afford reasonable protection to the permissible uses of properties surrounding the site. In addition to residences and their accessory uses, the Council may authorize commercial and non-residential uses which it finds to be:
 - 1. Designed to serve primarily the residents of the planned development.
 - 2. Limited to those nonresidential uses which do not exist in the vicinity.
 - 3. Fully compatible with and incorporated into the design of the planned development.

319.3 Development standards

All standards and requirements of this Ordinance and other City ordinances shall apply in a PD Zone unless the Planning Commission grants a variance from said standards in its approval of the PD Zone or accompanying subdivision plat.

SECTION 319 - PLANNED DEVELOPMENT ZONE PD

- A. Minimum size of PD Zone. A PD Zone may be established only on land which is suitable for the proposed development and of sufficient size to be planned and developed in a manner consistent with the purposes of this zone. A PD Zone shall not be established on less than two acres of contiguous land unless the Planning Commission finds that a smaller site is suitable because of unique character, topography, landscaping features, or constitutes an isolated problem area.
- B. Special improvements. In its approval of the final plan or subdivision plat within a PD Zone, the City may require the developer to provide special or oversize sewer lines, water lines, roads and streets or other service facilities. Such approval shall not obligate the City to expend funds for additional construction equipment or for special road, sewer, lighting, water, fire or police service.
- C. Density increase and control. The Council may permit residential densities which exceed those of the underlying zone, if it determines that the planned development is outstanding in planned land use and design, and provides exceptional advantages in living conditions and amenities not found in similar developments constructed under regular zoning. In no case shall such density increase be more than 20% greater than the density range prescribed for the primary land use designation indicated in the Comprehensive Plan.
- D. Peripheral yards. Along the periphery of any PD Zone, additional yard depth, buffering or screening may be required. Peripheral yards shall be at least as deep as that required by the front yard regulations of underlying zones. Open space may serve as peripheral yard and/or buffer strips to separate one planned area from another, if such dual use of the land is deemed to comply with this Section.
- E. Open space. Open space means the land area to be set aside and used for scenic, landscaping, or open recreational purposes within the development. Open space may also include areas which, because of topographic or other conditions, are deemed by the Council to be suitable for leaving in a natural condition. Open space shall be adequate for the recreational and leisure needs of the occupants of the development, and shall include the preservation of areas designated by the City for open space or scenic preservation in the Comprehensive Plan or other plans adopted by the City.

The development plan and program shall provide for the landscaping and/or preservation of the natural features of the land. To ensure that open space will be permanent, deeds or dedication of easements of development rights to the city of Milwaukie may be required. Instruments and documents guaranteeing the maintenance of open space shall be approved as to form by the City Attorney. Failure to maintain open space or any other property in a manner specified in the development plan and program shall empower the City to enter said property in order to bring it up to specified standards. In order to recover such maintenance costs, the City may, at its option, assess the real property and improvements within the planned development.

SECTION 319 - PLANNED DEVELOPMENT ZONE PD

All planned unit developments will have at least one third of the gross area devoted to open space and/or outdoor recreational areas. At least half of the required open space and/or recreational areas will be of the same general character as the area containing dwelling units. Open space and/or recreational areas do not include public or private streets.

319.4 Any development within a PD Zone shall be subject to the provisions of design review as outlined in a separate ordinance.

319.5 Preliminary development plan and program

- A. Applicant. For the purpose of this Section, "owner" or "owner-applicant" shall mean and include any individual(s), partnership(s), corporation(s), public body(s), Legal entity(s), or holder(s) of a written option to purchase said property. An owner of land located outside, but contiguous to, the City may submit a preliminary development plan for consideration by the City providing that an application for annexation to the City of Milwaukie has been filed.
- B. A preliminary development plan and program shall be submitted by the applicant with information as required by resolution of the Planning Commission.

319.6 Planning Commission review of preliminary development plan and program

- A. Conditional approval by Planning Commission. Following the meeting, or any continuance thereof, the Planning Commission shall notify the applicant whether, in its opinion, the provisions of this Ordinance have been satisfied, or advise of any deficiencies.
- B. Upon approval in principle of the preliminary development plan and program by the Planning Commission, with or without modifications, the owner-applicant shall, within six months, file with the City a final development plan and program and an application for a change of zone classification.

319.7 Final development plan and program

The final development plan and program shall contain information as required by resolution of the Planning Commission.

319.8 Subdivision plat

If the planned development will involve the subdivision of land as defined in City subdivision regulations, the owner-applicant shall prepare and submit a preliminary subdivision plat along with information required by said ordinance to be considered at the same time as the final development plan and program.

The final subdivision plat shall be submitted within one year subsequent to approval of the Planned Development Zone by Council.

319.9 Application for zone change

Together with submission of the final plan and development program the owner-applicant shall submit an application for a zone change to apply the PD Zone to the subject property.

SECTION 319 - PLANNED DEVELOPMENT ZONE PD

319.10 Planning Commission action on final development plan and program

- A. Upon receipt of the final development plan and program, zone change application, and preliminary subdivision plat, where applicable, notice shall be given and the Planning Commission shall hold a public hearing per subsection 1011.4, Major Quasi-Judicial review. If the final development plan and program is found to be in compliance with previous approval and with the intent and requirements of this Ordinance, it shall recommend the same, together with appropriate documents and conditions, to the City Council for adoption.
- B. It shall at the same time recommend the change to PD Zone in accordance with the provisions of Section 900. The approved final development plan and program shall be the basis upon which the change in zone is made. It shall at the same time approve the preliminary subdivision plat in accordance with the Milwaukie subdivision regulations.
- C. If the land upon which the change to PD Zone is sought is not within the boundaries of the City, the Planning Commission may approve the zone change and recommend it to the City Council to become effective when the land becomes annexed to the City; or continue the public hearing for the purpose of suitably amending the proposal; or disapprove the proposed developments and abandon hearings and proceedings thereon.

319.11 Council action on final development plan and program

- A. Upon receipt of Planning Commission recommendations as set forth above, the final development plan and program and zone change application shall be considered by the City Council.
- B. Following the consideration, the Council may adopt an ordinance applying the PD Zone to the subject property and, in so doing, shall adopt the approved final development plan and program as the standards and requirements for said zone. Council, by said ordinance, shall also accept or reject all or part of the dedications of public facilities, land and open space.
- C. If the proposed PD Zone is contiguous to, but not within, the City boundaries, the City Council shall delay final action until the land is officially annexed to the City.
- D. The Council may also continue consideration and refer the matter back to the Planning Commission with recommendations for amendment thereof, or reject the proposals and abandon further hearings and proceedings thereon.

319.12 Filing of approved final plan and program

Following action to amend the Zoning Ordinance and prior to its effective date, the owner-applicant shall file with the City of Milwaukie a conformed and approved final development plan and program, together with all pertinent documents approved as to form by the City Attorney.

SECTION 319 - PLANNED DEVELOPMENT ZONE PD

319.13 Recording of notice of final development plan

Each owner of property so rezoned shall execute a notice prepared by the City which acknowledges that the final development plan and program approved by the City Council constitutes zoning for the property. Such notice shall contain a legal description of the property and reference to the certified copy of the final development plan and program filed in the office of the City Recorder. Said notices shall be recorded in the office of the County Recorder of Clackamas County.

319.14 Development improvement prohibited pending compliance

No excavation, grading, construction, improvement or building shall begin, and no permits therefor shall be issued, within the PD Zone until all provisions of this article including execution and filing of required documents, all requirements of the City Subdivision Ordinance and Building Code, and all requirements of the final development plan and program have been complied with, unless approved by the Planning Commission.

319.15 Variations from final development plan and program

- A. Proposed changes which do not meet these criteria shall be processed in the same manner as for a new planned development.
- B. The development may vary from the approved final plan and program so long as it is consistent with any subsequent subdivision plat approved by the Planning Commission, and does not alter total density, ratio of dwelling unit types, boundaries of the planned development or location or area of public spaces.
- C. Where changes in a subdivision plat are not required, an application for approval of variations to the recorded final plan and program may be submitted in writing. Such variations may be approved by the City staff provided they do not alter dwelling unit densities, alter dwelling unit type ratios, increase or change the type or location of commercial or residential structures, change the boundaries of the planned development, or change the location and area of public open spaces and recreational areas.

319.16 Expiration of Planned Development Zone

If, within six months of its effective date, substantial construction or development in the PD Zone has not occurred in compliance with the approved final development plan and program and schedule for stage completion, the Planning Commission may initiate a review of the PD Zone and hold a public hearing to determine whether its continuation in whole or in part is in the public interest. Notification and hearing shall be in accordance with subsection 1011.4, Major Quasi-Judicial review, of the Zoning Ordinance. If found not to be, the Planning Commission shall recommend to the City Council that the PD Zone be removed by appropriate amendment to the Zoning Ordinance and property changed back to original zoning.

SECTION 320 - WILLAMETTE GREENWAY ZONE WG

320 WILLAMETTE GREENWAY ZONE WG

In a WG Zone, the following regulations shall apply:

320.1 Purpose

The purpose of the Willamette Greenway Zone is to protect, conserve, enhance and maintain the natural, scenic, historic, economic, and recreational qualities of lands along the Willamette River and major courses flowing into the Willamette River.

320.2 Area defined

The Willamette Greenway Zone is that area within the Willamette Greenway Plan Boundary identified on the Zoning Map. The WG Zone is in combination with the underlying zone.

320.3 Limitations on use

All uses and any change or intensification of use, or development permitted in the underlying zone, are conditional uses, subject to the provisions of Section 600.

320.4 Procedures

The following procedures shall govern the application of WG Zones:

- A. In the WG Zone all uses and their accessory uses are permitted subject to the provisions of Section 600.
- B. The Oregon Department of Transportation shall be notified according to the provision of subsection 1011.3.D.
- C. The provisions of the WG Zone in section 320 shall apply until adoption of the Willamette Greenway Design Plan.

320.5 Criteria

The following shall be taken into account in the consideration of a conditional use:

- A. Whether the land to be developed has been committed to an urban use, as defined under the State Willamette River Greenway Plan.
- B. Compatibility with the scenic, natural and recreational character of the River.
- C. Protection of views.
- D. Landscaping, aesthetic enhancement, open space, and vegetation between the activity and the River, to the maximum extent practicable.
- E. Public access to and along the River, to the greatest possible degree, by appropriate legal means.
- F. Emphasis on water-oriented and recreational uses.
- G. Maintenance and increase views between the Willamette River and downtown.
- H. Protection of the natural environment according to regulations in the Environmental Protection Ordinance.

SECTION 320 - WILLAMETTE GREENWAY ZONE WG

- I. Advice and recommendations of the Design Review Committee, as appropriate.
- J. Conformance to applicable Comprehensive Plan policies.

320.6 Setbacks

On a case-by-case basis, uses that are not water dependent or water-related shall be evaluated according to criteria of subsection 320.5 above so that they are directed away from the River. Existing and proposed uses that are water-dependent and water-oriented may be permitted near or at the water's edge subject to review of criteria in subsection 320.5 above.

320.7 Greenway Design Plan

The WG Zone is intended to be temporary and will be replaced by the Willamette Greenway Design Plan when it is completed. The Willamette Greenway Design Plan is identified in the Comprehensive Plan of the City.

SECTION 321 - COMMUNITY SERVICE OVERLAY ZONE CSO

321 COMMUNITY SERVICE OVERLAY ZONE CSO

321.1 Purpose

This Section provides for the development of special uses, which because of their public convenience, necessity and unusual character, may be appropriate in one district but not another. This Section also provides for the review and approval of various kinds of public and private facilities including utility and recreational facilities. The Community Service Overlay will function as an overlay designation for all public and private institutions in all zones and districts.

321.2 Applicability

Any community service development shall be subject to the provisions of this Section, unless otherwise directed in primary zones. Community service uses include private and public utilities, institutions and recreational facilities as listed below.

A. Institutions: public/private and other public facilities

1. Schools, public or private and their accompanying sports facilities, day-care centers, private kindergartens.
2. Government office buildings for local, state or federal government such as a city hall, courthouse, correctional facilities, or other similar buildings.
3. Hospital.
4. Cemetery.
5. Nursing or convalescent home.
6. Churches.
7. Community meeting building.
8. Other similar uses as determined by the Planning Commission.

B. Utilities:

1. Sewage pumping stations.
2. Water wells, pump stations, and related facilities.
3. Electrical power substations.
4. Telephone switching station.
5. Public Works shops, road shops, yards, bus barns, equipment and material storage yards and other similar uses.
6. Telephone, microwave facilities.
7. Radio and television transmission facilities, including studios.
8. Public transit facilities.

SECTION 321 - COMMUNITY SERVICE OVERLAY ZONE CSO

9. Passenger terminal
10. Other similar uses as determined by the Planning Commission.

C. Recreation facilities: public or private

1. Private club, fraternal organization, lodge, grange.
2. Public and/or privately owned parks including golf courses.
3. The 40-Mile Loop.
4. Other similar uses as determined by the Planning Commission.

321.3 Notice requirements

The Planning Commission shall hold a public hearing for a community service use request per the procedures outlined in subsection 1011.3.C, Minor Quasi-Judicial review, Community Service Overlay.

321.4 Authority to grant or deny a community service use

A. An application for a community service use may be allowed if:

1. The requirements of the underlying zone are met.
2. Specific standards for the uses found in subsections 321.7-321.10 are met.
3. The hours and levels of operation of the proposed use can be adjusted to be reasonably compatible with surrounding uses. For solid waste facilities, this shall mean:

a. Hours of operation

If a solid waste facility is to be located within 500 feet of property planned, zoned, or used for residential purposes, no solid waste facility shall be in operation between the hours of 7:00 p.m. and 7:00 a.m.

b. Traffic

No solid waste facility shall be approved except where all vehicular access to and from the solid waste facility site is via a City of Milwaukie designated arterial street or Oregon department of Transportation highway. No solid waste facility shall be approved where the level of service at the nearest arterial intersection that would serve the facility is below a level of service "C" (higher than a volume/capacity ratio of .8), as defined by the Highway Capacity Manual, Special Report 209, Transportation Research Board, 1985. Further, no solid waste facility shall be approved where the design capacity of the adjacent roadway is exceeded by existing or future traffic.

SECTION 321 - COMMUNITY SERVICE OVERLAY ZONE CSO

c. Litter control

The applicant shall provide to the City of Milwaukie at the time of application a plan for daily litter control. Said plan shall include identification of personnel, financing, available tools and facilities, methods to be used, and a method for public contact to notify operators of litter, noise, or other operational problems.

d. Noise

Noise levels shall comply with Chapter 8.08 (Noise Control) of the Milwaukie Municipal Code.

e. Storage

All materials shall be stored within an enclosed building except as follows: 1) where all materials are stored within an area enclosed by a solid, opaque wall or fence 8 feet or more in height and landscaped along all street frontages, and, 2) when located at least 250 feet from property planned, zoned, or used as residential, and, 3) where all materials are nonputrescible.

f. After-hours use

Any containers provided for after-hours donation of recyclable materials only, shall be located at least 250 feet from any property planned, zoned, or used for residential purposes.

g. Glare

Exterior light shall be in accordance with the latest recommendations of the Illumination Engineering Society. Glare from either direct or indirect sources shall not exceed 0.5 footcandles. Site lighting shall be hooded and directed downwards, onto the site.

h. Materials handled

No hazardous wastes, as defined and regulated by ORS 466.005 as amended, shall be disposed on the site.

- B. In permitting a community service use or the modification of an existing one, the Planning Commission or the Community Development Director in the case of a minor change, may impose suitable conditions which assure compatibility of the use with other uses in the vicinity. These conditions may include but are not limited to:

1. Limiting the manner in which the use is conducted by restricting the time an activity may take place and by minimizing such environmental effects as noise and glare.
2. Establishing a special yard, setback, lot area or other lot dimension.

SECTION 321 - COMMUNITY SERVICE OVERLAY ZONE CSO

3. Limiting the height, size, or location of a building or other structure.
 4. Designating the size, number, location and design of vehicle access points.
 5. Increasing roadway widths, requiring street dedication, and/or requiring improvements within the street right-of-way including full street improvements.
 6. Designating the size, location, screening, drainage, surfacing or other improvement of a parking area or truck loading area.
 7. Limiting or otherwise designating the number, size, location, height and lighting of signs.
- C. The Community Development Director may approve minor changes in any development permit, provided that such changes:
1. Does not increase the intensity of any use, or the density of residential use.
 2. Meets all requirements of the underlying zone and specific standards.
 3. Does not significantly affect adjacent property or uses, will not cause any deterioration or loss of any natural feature or open space; nor significantly affect any public facility and
 4. Does not affect any conditions specifically placed on the development by the Planning Commission or City Council.
- D. The Planning Commission will hold a public hearing on the establishment of the proposed community service use. If the Commission finds that the establishment of the community service use is in the general public interest and that the benefits to the public outweigh the possible adverse impacts of the use, then the Commission may approve the designation of the site for community service use. If the commission finds otherwise, the application may be denied. This approval will result in the application of the Community Service Overlay designation to a particular piece of land, subject to any conditions the Planning Commission may attach.

321.5 Application requirements

An application for approval of a community service use shall include the following:

- A. Name, address and telephone number of applicant and/or property owner.
- B. Map number and/or subdivision block and lot.
- C. Narrative concerning the proposed request.
- D. Copy of deed, or other document showing ownership or interest in property. If applicant is not the owner, the written authorization from the owner for the application shall be submitted.

SECTION 321 - COMMUNITY SERVICE OVERLAY ZONE CSO

- E. Vicinity map.
- F. Comprehensive Plan and zoning designations.
- G. A map showing existing uses, structures, easements and public utilities and showing proposed development, placement of lot lines, etc.
- H. Detailed plans for the specific project.
- I. Any information required by other applicable provisions of local, state or federal law.
- J. Proof of payment of the applicable fees.
- K. Additional drawings, surveys, or other material necessary to understand the proposed use may be required.

321.6 Review of application

Upon receipt of an application, the Director shall:

- A. Review the application for completeness and shall either accept the application or return it to the applicant with a written list of omissions within seven (7) calendar days of the date of submittal. Date of acceptance shall be noted.
- B. A preapplication conference may be scheduled at the request of either the applicant or staff.
- C. As soon as an application is accepted as complete notice will be sent if required by Section 1011.
- D. A field visit to the site will be required prior to preparation of the staff report.

321.7 Specific standards for schools

(Public, private or parochial, elementary, secondary, preschool, nursery schools, kindergartens and day-care centers are included.)

- A. Public elementary or secondary schools shall provide the site area/pupil ratio required by state law. Other schools shall provide one acre of site area for each 75 pupils of capacity or for each two and one-half classrooms, whichever is greater except as provided in subsection 321.7.B below.
- B. Pre-schools, nursery schools, day-care centers or kindergartens shall provide a fenced, outdoor play area of at least 75 square feet for each child of total capacity, or a greater amount if so required by state law. In facilities where groups of children are scheduled at different times for outdoor play, the total play area may be reduced proportionally based on the number of children playing out-of-doors at one time. However, the total play area may not be reduced by more than one half. These uses must comply with the State Children's Services Division requirements as well as the City provisions.
- C. Walkways, both on and off the site, will be provided as necessary for safe pedestrian access to schools.
- D. Sight-obscuring fence of four to six feet in height shall be provided to separate the play area from adjacent residential uses.

SECTION 321 - COMMUNITY SERVICE OVERLAY ZONE CSO

- E. Public facilities must be adequate to serve the facility.
- F. Safe loading and ingress and egress will be provided on and to the site.
- G. Off-street parking (including buses) shall be provided as per Section 500.
- H. Minimum setback requirements:

Front yard	20 feet
Rear yard	20 feet
Side yard	20 feet

Setbacks may be increased depending on the type and size of school in order to insure adequate buffering between uses and safety for students.
- I. Bicycle facilities are required which adequately serve the facility.
- J. Fifteen percent (15%) of the total site is to be landscaped.

321.8 Specific standards for nursing or convalescent homes

- A. Public services must be adequate to serve the facility.
- B. Facilities will access on arterial or collector streets.
- C. Setbacks must be the greater of 25 feet or the setback of an adjacent residential zone or of the underlying zone.
- D. Maximum height shall not exceed 45 feet.
- E. Buffering of noise and light from adjacent streets and between adjacent properties may be required.
- F. Sites which could cause hazard to disoriented patients through proximity to heavily traveled streets, water hazards or ravines or steep slopes shall not be approved unless the applicant can satisfy the Commission that safety measures will be used to prevent injury to patients.
- G. On parcels surrounded by existing dwellings, additional conditions may be necessary to:
 - 1. Mitigate the effects of traffic caused by shift changes, particularly regarding noise at night, and safety of school children in transit.
 - 2. Maintain neighborhood scale, particularly, regarding size of structure, width of driveway, signs, exterior lighting and placement of parking facilities.
- H. Conversion of existing dwellings may be allowed if State codes and rules can be met and the conditions of this section are satisfied.
- I. Off-street parking must be provided as per Section 500.
- J. Fifteen percent (15%) of the total site is to be landscaped.

321.9 Specific standards for churches, convent and related facility

- A. A church spire may exceed the maximum height limitation.

SECTION 321 - COMMUNITY SERVICE OVERLAY ZONE CSO

- B. The lot is of sufficient size to allow all required yards to be equal to at least two thirds of the height of the principal structure.
- C. Public facilities are adequate and, in particular, access streets have capacity to carry projected traffic.
- D. Fifteen percent (15%) of the total site is to be landscaped.
- E. Off-street parking as per Section 500.

321.10 Specific standards for institutions: Public/private and other facilities not covered by other standards

- A. Utilities, streets or other improvements necessary for the public facility or institutional use shall be provided by the agency constructing the use.
- B. When located in or adjacent to a residential zone, access should be located on a collector street if practicable. If access is to a local residential street consideration of a request shall include an analysis of the projected average daily trips to be generated by the proposed use and their distribution pattern, and the impact of the traffic on the capacity of the street system which would serve the use. Uses which are estimated to generate fewer than twenty (20) trips per day are exempted from this subsection 321.10.B
- C. When located in a residential zone, lot area shall be sufficient to allow required setbacks that are equal to a minimum of two thirds of the height of the principal structure. As the size of the structure increases, the depth of the setback must also increase to provide adequate buffering.
- D. the height limitation of a zone may be exceeded to a maximum height of 50 feet provided subsection 321.10.C is met.
- E. Noise-generating equipment shall be sound buffered when adjacent to residential areas.
- F. Lighting shall be designed to avoid glare on adjacent residential uses and public streets.
- G. Where possible, hours and levels of operation shall be adjusted to make the use compatible with adjacent uses.

322 NATURAL RESOURCE OVERLAY ZONE NR

322.1 Purpose

This section is intended to provide protection for natural resources or areas with natural resource values that have been identified by the City as providing benefits to the public. Such areas include sites meeting the standards of Statewide Planning Goal 5 for open space, scenic, or natural values.

The Natural Resource Overlay Zone provides protection for natural resource sites depending upon the characteristics of the resource.

The overlay zone is intended to allow development in situations where adverse impacts from the development can be avoided or mitigated. In addition, the regulations of this section are an important factor in the City's compliance with Statewide Planning Goal 5 and also serve to encourage coordination between City, State, and federal agencies concerned with natural resource regulatory programs.

322.2 Designations

The Natural Resource Overlay Zone will be attached to the primary zone for properties identified as requiring protection by the City's Natural Resource Inventory. The overlay zone will be applied on the Zoning Map to show natural resource areas described as follows:

- A. Riparian areas - The NR Overlay Zone will be assigned to identified natural resource sites fronting water bodies, including rivers, creeks, lakes, and ponds. The boundary of this overlay zone shall be the same as the 100-Year floodplain as established by FEMA, except for that area fronting the Willamette River from Johnson Creek to the south end of the sewage treatment plant site, where the boundary shall be 25 ft. inland (measured horizontally) from the mean high water line as established by the Oregon Division of State Lands.
- B. Wetland areas - The NR Overlay Zone will be assigned to identified natural resource sites containing wetlands. The specific boundary of this overlay zone has not been identified by the Natural Resources Inventory and therefore shall generally follow identified tax lot boundaries until such time as specific on-site studies, normally as part of a development request, can more clearly delineate the wetland location.
- C. Habitat areas - The NR Overlay Zone will be assigned to nonriparian and nonwetland natural resource sites containing habitat values such as wooded areas, naturally vegetated areas, areas with rare or endangered flora and fauna, or similar areas, as identified by the Natural Resources Inventory. The specific boundary of this overlay zone has not been identified by the Natural Resources Inventory and therefore shall generally follow identified tax lot boundaries until such time as specific on-site studies, normally as part of a development request, can more clearly delineate the habitat location.

SECTION 322 - NATURAL RESOURCE OVERLAY ZONE NR

322.3 Primary uses

The provisions of Section 322 do not prohibit uses allowed by the primary zone. However, the amount and placement of uses and development may be regulated in order to meet the purpose and provisions of this section.

322.4 Applicability

Development review and approval is required prior to development for sites having a Natural Resource Overlay Zone that are proposed for the following development activities:

- A. New structural development;
- B. Fills, excavations, and modifications of drainage patterns, except as provided in subsection 322.5.D;
- C. Site modifications, including new or changes to: parking and maneuvering areas, loading areas, exterior storage, landscaped areas, or identified resources;
- D. Exterior expansion of any building or activity;
- E. New above or below ground utility structures, except as provided in subsection 322.5.F
- F. Dedication and purchase of new public rights-of-way, including extensions of existing rights-of-way, except where the federal NEPA process is followed;
- G. Removal of trees, or the cutting or clearing of any noncultivated (natural) vegetation;
- H. Resource enhancement activities; and
- I. Other uses not specifically exempted from review, including land divisions.

322.5 Exemptions from review

The following uses are exempt from development review:

- A. Change of use where there are no exterior alterations to buildings or structures, or increases in floor area, impervious surfaces, or storage areas;
- B. The sale of property;
- C. The normal maintenance and repair necessary for an existing use;
- D. Customary dredging and channel maintenance of existing drainage facilities, but not the temporary or permanent placement of fill or dredge spoils;
- E. Temporary emergency procedures necessary for the safety or protection of property;
- F. Single utility poles required to provide service to the local area; and
- G. Development in compliance with an approved natural resource management plan (refer to subsection 322.11) or mitigation plan (refer to subsection 322.10).

322.6 Development review process

The Planning Commission shall review applicable development requests within the Natural Resource Overlay Zone. The review process shall be the same as for the Minor Quasi-Judicial review for Community Service Overlay uses as described in subsection 1011.3.

322.7 Development standards

In addition to requirements of the primary zone, applicants for development activities within the Natural Resource Overlay Zone shall provide a written report, as required by the Community Development Director, identifying how the activity complies with the following standards:

- A. Development activities within a designated Natural Resource Site which is adjacent to or outside of the specific natural resource location, may show by on-site survey that the boundary of the NR Overlay Zone should exclude the activity site, but in any event, must comply with the following:
 - 1. Site preparation and construction practices shall be followed that prevent drainage of hazardous materials or erosion, pollution, or sedimentation to the adjacent natural resource location.
 - 2. A development setback which adequately protects the resource site is required.
 - 3. Development consisting of vehicle maneuvering and parking areas, outside storage and display areas, and trash collection areas shall also be screened from the natural resource location by sight-obscuring vegetation or fencing.
 - 4. Outdoor activities including open fabrication or operations which create large amounts of noise, dust, or glare, except for river related and river-dependent uses, are not allowed due to their higher potential for adverse impacts on adjacent natural resource locations.
 - 5. The types, sizes, and intensities of lights must be placed so that they do not shine directly into the natural resource locations.
- B. Development activities within a natural resource location shall comply with the following:
 - 1. Development of trails, rest points, viewpoints, and other facilities for the enjoyment of the resource must be done in such a manner so as to reduce impacts on the natural resource while allowing for the enjoyment of the natural resource.
 - 2. Development in areas of dense standing trees will be designed to minimize the numbers of trees to be cut. No more than 50 percent of mature standing trees (of six inch diameter or greater at a 5 ft. height) shall be removed without a one-for-one replacement with comparable species. The site plan for the proposed

SECTION 322 - NATURAL RESOURCE OVERLAY ZONE NR

activity shall identify all mature standing trees by type, size, and location, which are proposed for removal, and where and what type of tree replacement (if applicable) is to occur.

3. Harvesting of uncultivated timber is not permitted except as allowed by subsection 322.7.B.2 above.
4. Areas of standing trees, shrubs, and natural vegetation will remain connected or contiguous, particularly along natural drainage courses, except where mitigation is approved, so as to provide a transition between the proposed development and the natural resource, provide opportunity for food, water, and cover for animals located within the natural resource location, and to protect the visual amenity values of the natural resource.
5. Natural riparian vegetation along streams and drainageways will be maintained and preserved, except where mitigation is approved. Such vegetation will be maintained for a minimum distance of 15 feet from the normal high water line in those areas with slopes of 10 percent or less. Where slopes exceed 10 percent, an additional foot of vegetation should be preserved for each additional percent of slope increase. Selective cutting, trimming, and thinning may be allowed as necessary for access to the waterway.
6. Storm water flows as a result of proposed development within and to natural drainage courses shall not exceed natural flows as determined by the City Public Works Department.
7. Construction practices for all projects, private and public, will include steps to ensure that land cuts are not exposed to storm water. Land and trenches will be graded to allow direct flow into natural drainage courses. Grading shall not expose unprotected surfaces to water flows and possible erosion.
8. The development will be designed to have the least amount of impact on the natural features/values of the site as possible. The design should look at alternatives (design and location) to mitigate the impact.
9. Road crossings of major natural drainage courses will be minimized as much as possible.
10. The construction phase of the development must be done in such a manner to safeguard the portions of the site within the Natural Resource Overlay Zone that have not been approved for development. The effect of this is that construction equipment, construction materials, excess fill, runoff, etc. will not ultimately harm the natural resource area.
11. A mitigation plan shall be required for development activities that would adversely impact the natural resource values of the site, as per subsection 322.10

322.8 Site surveys required

The applicant for a development activity will be required to perform an on-site survey to inventory the location, nature, and characteristics of the natural resources when:

- A. The extent of the natural resource location is not specifically identified by the City natural Resources Inventory; or
- B. The applicant believes the Natural Resource Overlay Zone boundary is inaccurate; or
- C. Modifications impacting the natural resource are proposed.

322.9 Site survey content

The site survey shall include the following:

- A. A scaled site plan which clearly identifies:
 - 1. The nature and characteristics of the natural resources on the site; including a description of species observed and habitat;
 - 2. The location of both existing and proposed structures, parking/maneuvering areas, utilities, and other development;
 - 3. The physical characteristics of the site including slope, water course location, and vegetation location and type to include species list and community types, with approximate percentage coverage, groves of trees, and all individual trees 6 inches in diameter or larger at 5 feet above the ground.
 - 4. Information provided for the site from the City Natural Resources Inventory.
- B. A narrative describing the proposed activity and its relation to the location of the natural resources.

322.10 Mitigation plans

Development within a natural resource location has the potential of degrading or destroying the natural resource and its resource values. If avoidance of the resource area is not practical, a mitigation plan will be required if the development has the potential for reducing the natural resource value of the site in question to the point of no longer qualifying as a natural resource site on the City Natural Resources Inventory.

The mitigation plan shall include the following:

- A. The site survey with affected natural resource locations clearly located;
- B. A narrative describing the natural resources being removed or affected;
- C. A site plan indicating new natural resource locations to be created as part of mitigation or existing natural resource locations to be enhanced; and

SECTION 322 - NATURAL RESOURCE OVERLAY ZONE NR

- D. A narrative describing the proposed mitigation or enhancement activity.

322.11 Natural resource management plans

Natural resource management plans may be approved as part of the development review process for larger scale, long-term or phased developments. This approval would allow the proposed development to occur without the need for additional development reviews, provided the proposal follows the approved plan.

The natural resource management plan should include a site survey of the natural resources, a site plan, and mitigation plan. Modifications to an approved plan would require a new development review process.

322.12 Preparation of plans and surveys

Natural resource site surveys, mitigation plans, and management plans shall be prepared by competent professionals with expertise in natural resources. The applicant is responsible for the preparation of plans and surveys and for obtaining professional assistance appropriate to the nature of the particular plan or survey.

322.13 Density transfer and clustering

Density transfer or clustering of development may be allowed, provided density standards of the primary zone are not exceeded, in order to avoid modifications to natural resource areas. Additional requirements for density transfer or clustering are as follows:

- A. Mitigation of the natural resources is not feasible for the site; or
- B. The natural resource values are such that modifications to the natural resource location are not desirable; and
- C. The density standards of the primary zone are not exceeded for the overall properties involved; and
- D. The natural area is preserved by one of the following methods:
 - 1. Dedication to the City of Milwaukie;
 - 2. Donation to a natural resource conservancy organization; or
 - 3. Designation as common area to be protected and maintained as a natural area by a home owners association or similar covenants.
 - 4. Creation of dedicated easements or other legal protection measures as approved by the City Attorney.

322.14 Density transfer off the site

Density transfer for residential development may be made to adjacent properties, provided the standards of subsection 322.13 are met. Approval of development review requests involving density transfer off the site shall be made by the Planning Commission by a Minor Quasi-Judicial review process. In such a case, gross site density shall be determined by adding the lot

SECTION 322 - NATURAL RESOURCE OVERLAY ZONE NR

areas of both the lot with the natural resource area and the adjacent lot receiving the density transfer, and dividing this total by the primary zone area requirement per unit.

322.15 Variance for density transfer and clustering

Variances for setbacks, building height, lot coverage, access and other standards of the primary zone may be allowed as part of a density transfer and clustering proposal. The review of the variance shall follow procedures of Sections 703 and 704. Three approval criteria must be met as follows:

- A. No feasible alternatives exist to negate the need for a variance;
- B. The variance will create no compatibility problems or adverse effects upon other properties; and
- C. The variance is required to adequately protect the natural resource values of the site.

322.16 Modification of Natural Resource Overlay Zone boundaries

Natural Resource Overlay Zone boundaries may be modified as part of the development review process identified in subsection 322.6 to reflect new boundary information obtained as part of site studies or to include new mitigation areas proposed as part of development. All other requests for boundary changes are processed as provided for in Section 900. "Amendments" and follow the Major Quasi-Judicial review process of subsection 1011.4.

322.17 Dedication for trails

If a proposal is on a lot that has a recreational trail designation shown either on the City Zoning Map or Comprehensive Plan Land Use Map, the easement for the trail must be granted prior to the issuance of a building permit. The trail must be constructed, a bond provided for that purpose, or a developer's agreement signed prior to the issuance of occupancy permits.

322.18 Coordination among regulatory agencies

The regulations of other agencies may apply to development proposals for natural resource areas. These agencies may include the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service, the Environmental Protection Agency, the Oregon Division of State Lands, and the Oregon Department of Fish and Wildlife. The City will notify applicable agencies for referral responses to specific development proposals prior to the issuance of City permits. The City should also encourage the applicant to contact applicable agencies before development plans are completed so as to consider the requirements and restrictions that may be imposed by the agencies.

323 HISTORIC PRESERVATION OVERLAY ZONE HP

In an HP Zone the following regulations shall apply:

323.1 Purpose

The intent and purpose of this Section is to promote the general welfare by providing for the identification, protection, enhancement, perpetuation, and use of sites, structures, districts, objects, and buildings within the City that reflect the City's unique architectural, archaeological, and historical heritage and to facilitate preservation of such properties in order to:

- A. Safeguard the City's heritage as embodied and reflected in such resources;
- B. Encourage public knowledge, understanding, and appreciation of the City's history and culture;
- C. Foster community and neighborhood pride and sense of identity based on recognition and use of cultural resources;
- D. Promote the enjoyment and use of cultural resources appropriate for the education and recreation of the people of the City;
- E. Preserve diverse and significant architectural styles reflecting phases of the City's history, and encourage complementary design and construction relative to cultural resources;
- F. Enhance property value and increase economic and financial benefits to the City and its residents;
- G. Identify and resolve conflicts between the preservation of cultural resources and alternative land uses;
- H. Integrate the management of cultural resources and relevant data into public and private land management and development processes; and
- I. Implement the goals and policies of the Comprehensive Plan.

323.2 Applicability

- A. Section 323 shall apply to all historic resources within the City as identified in the Historic Resources Element of the Comprehensive Plan.
- B. An historic resource may be designated HP on the Zoning Map and placed on the City Historic and Cultural Resources Inventory following the procedures of subsection 323.5 below.

323.3 Definitions

- A. Alteration, landmark: Means a change, addition, or modification of a landmark which affects the exterior of the landmark, excluding routine maintenance as defined in subsection 323.6 of this Ordinance.
- B. Committee: Means the City of Milwaukie Historic Review Committee.

SECTION 323 - HISTORIC PRESERVATION OVERLAY ZONE HP

- C. **Contributing:** Is an historic resource ranking whereby buildings, sites, structures, or objects are less significant examples of architecture or of lesser historical association. These, over time, may become a source for additional "Significant" resources. To be designated as "Contributing," an historic resource must receive a rating score level of 50% to 60% on the evaluation worksheet or score a high of 10 in at least one of the categories of the evaluation worksheet.
- D. **Demolish:** Means to raze, destroy, dismantle, deface, or in any other manner cause partial or total destruction of a designated resource or building in an historic district.
- E. **Evaluation worksheet:** Is a rating system used by the City to rank historic resources as to their historic, architectural, or environmental characteristics. The ranking system is numerical with a top score of 86 and is part of the Historic and Cultural Resources Inventory, located in the background paper.
- F. **Historic or cultural resource or resource:** Means any site, object, building, ensemble, district, or structure which is included in the Historic and Cultural Resources Inventory.
- G. **Historic and Cultural Resources Inventory or Inventory:** Means the 1988 Milwaukie Historic and Cultural Resources Inventory included as part of the Historic Resources Background Paper of the Comprehensive Plan.
- H. **Landmark:** Means a cultural resource that has been designated by the Milwaukie City Council as per subsection 323.4 of this Ordinance.
- I. **Significant:** Is an historic resource ranking whereby important buildings, sites, structures, or objects in Milwaukie are distinguished by outstanding qualities of architecture, relationship to environment, and/or historic associations. To be designated as "Significant," an historic resource must receive a rating score level of 60% or greater on the evaluation worksheet and be at least 50 years old, or score a high of 10 in at least two of the categories of the evaluation worksheet, or be listed on the National Register of Historic Places.
- J. **Unrankable:** Historic resources lack sufficient information to be ranked. When that information is available, those found to be "Significant" or "Contributing" shall be recommended by the Historic Review Committee for designation as "Landmarks."

323.4 Historic Review Committee

- A. **Appointment and composition:** Two members of the Planning Commission and three individuals to be appointed by the City Council shall comprise the Historic Review Committee. Two of the appointed individuals shall have demonstrated special interest, experience, and/or knowledge in the field of historic preservation, architecture, history, or related disciplines. The third individual appointed shall be a citizen-at-large. The three individuals shall be appointed for a term of three years and may be reappointed to, or removed from, the Committee at the discretion of the City Council.

SECTION 323 - HISTORIC PRESERVATION OVERLAY ZONE HP

B. Duties and responsibilities: The Committee shall be responsible for the following:

1. Carry out the duties described for it in this Section and otherwise assist the City Council on historic preservation matters.
2. Review and make recommendations on all partitions and subdivisions of designated properties.
3. Disseminate information to educate the public as to State and federal laws protecting antiquities and historic places.
4. Act as a coordinator for local preservation groups such as the Milwaukie Historical Society, educational workshops, signing and monumentation projects, and other similar programs.
5. Assist the Milwaukie Historical Society in advising interest groups, agencies, boards, commissions, and citizens on matters relating to historic preservation within the City.
6. Review and make recommendation on all applications requesting designation or deletion of a landmark and placement or removal on the Cultural Resources Inventory, as provided under subsection 323.5.
7. Review and make recommendation on all applications requesting designation or deletion of an historic district as provided under subsection 323.5.
8. Review all development which proposes to alter a landmark, subject to the procedures and criteria set forth in this section.
9. Review all demolition permits affecting landmarks, as provided under subsection 323.8.
10. Review and make recommendation on all conditional use applications related to landmarks.
11. Maintain an Historic and Cultural Resources Inventory and map of landmarks.
12. Develop regulations for the protection of landmarks, such as design guidelines for adoption by the City Council.

323.5 Process for designation or deletion of a landmark

- A. Application request: The owner of record, contract purchase, or an agent of any of the foregoing, of property within the City of Milwaukie may make application for resource designation or deletion. The application shall be in such form and detail as the Community Development Director prescribes and will be the same as the Major Quasi-Judicial review process of subsection 1011.4 of this Ordinance, substituting the Historic Review Committee for the Planning Commission. The application shall be submitted to the Community Development Director. The Historic Review Committee or the City Council may also initiate such proceedings on their own motion.

SECTION 323 - HISTORIC PRESERVATION OVERLAY ZONE HP

- B. Historic Review Committee: The Committee, as described in subsection 323.4, shall conduct a public hearing to evaluate the request. The Committee shall enter findings and make a written recommendation to the City Council.

For designation, the Committee shall determine that the resource meets the ranking standards for resource designations (as defined in subsection 323.3) based on completion of the evaluation worksheet.

For deletion, the Committee shall determine that the resource does not meet the ranking standards for resource designations.

The Committee shall also determine whether the designation meets the goals and policies of the Comprehensive Plan.

- C. City Council: The City Council shall conduct a public hearing to consider the recommendation of the Historic Review Committee on the request and shall either approve, approve with conditions, or deny the request.
- D. Pending permits: No new construction, exterior alteration, demolition, or removal permits for any improvement, building, or structure relative to a proposed landmark shall be issued while any public hearing or any appeal affecting the proposed action is pending.
- E. Interim measures: Upon a request for new construction, exterior alteration or demolition of a resource which is on the inventory but designated as "Unrankable" for lack of information regarding location, quality, or quantity, the applicant shall be required to first complete the designation process for the resource as outlined in subsection 323.5.

323.6 Alteration and development

- A. Review required: Any exterior alteration of a landmark shall be subject to review under the provision of subsection 323.6 herein. This review applies only to those resources determined to be "Significant" on the inventory. Resources designated "Unrankable" must complete the process referred to in subsection 323.5.
- B. Application Request: The application shall be submitted to the Community Development Director. The application shall be in such form and detail as the Community Development Director prescribes. Applications subject to subsection 323.6.C shall follow the Type I Administrative review process of subsection 1011.1.
- C. Administrative approval:
1. The Community Development Director shall approve alteration requests if:
 - a. There is no change in the appearance and materials of the existing landmark; or
 - b. The proposed alteration duplicates the affected exterior building features as determined from an historic photograph, original building plans, or other evidence of original building features.

SECTION 323 - HISTORIC PRESERVATION OVERLAY ZONE HP

2. The following minor alterations are exempt from review provided these actions meet the above standards.
 - a. Replacement of gutters and downspouts, or the addition of gutters and downspouts, using materials that match the appearance of those that were typically used on similar style buildings;
 - b. Repairing, or providing a compatible new foundation that does not result in raising or lowering the building elevation;
 - c. Replacement of building material, when required due to deterioration of material, with building material that matches the appearance of the original material;
 - d. Repair and/or replacement of roof materials with the same kind of roof materials existing, or with materials which are in character with those of the original roof;
 - e. Application of storm windows made with wood, bronze, or flat finished anodized aluminum, or baked enamel frames which complement or match the color detail and proportions of the building;
 - f. Replacement of wood sashes with new woods sashes, or the addition of wood sashes when such is consistent with the original historic appearance;
 - g. Installation of solar equipment so that it complies with subsection 323.6.C.2.e; and
 - h. The installation of security doors and security lighting systems.
- D. Other requests: All requests that do not meet the provisions of subsection 323.6.C shall be forwarded to the Committee. The Committee's decision will be final after notice and public hearing held the same as subsection 1011.3 of this Ordinance (Minor Quasi-Judicial review), substituting the Historic Review Committee for the Planning Commission. The Committee shall approve or disapprove issuance of the permit. The Committee may attach conditions to the approval for permit which must be adhered to for the permit to remain valid.
- E. Criteria and findings: Approval of a permit to alter a landmark or any property in the HP district shall be based on findings of adherence to the following guidelines:
 1. Retention of original construction: Distinguishing original qualities defining a resource's character shall not be destroyed. Removal or alteration of historic materials or distinctive architectural features should be avoided when possible.

SECTION 323 - HISTORIC PRESERVATION OVERLAY ZONE HP

2. Building Height: Existing building heights should be maintained. Alteration of roof pitches shall be avoided. Raising or lowering a building's permanent elevation when constructing a foundation shall be avoided, except as required by Building Code or floodplain development permit.
3. Horizontal additions: The scale and proportion of building additions, including the relationship of windows to walls, shall be visually compatible with the traditional architectural character of the historic building. Contemporary design for alterations and additions is acceptable if the design respects the building's original design and is compatible with the original scale, materials, and window and door opening proportions of the building.
4. Windows: Window replacements shall match the visual qualities of original windows as closely as possible. Wood window frames are preferred in meeting this standard. However, if nonwood replacements exhibit similar visual qualities as their wooden counterparts, they may be acceptable. The original number of window panes shall be maintained or restored when replacements are required.
5. Restoration possible: Except where Building Code precludes it, new additions or alteration to buildings shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the original building could be restored.
6. Signs and lighting: Signs, lighting, and other appurtenances, such as walls, fences, awnings, and landscaping, shall be visually compatible with the original character of the building.
7. Time period consistency: Buildings shall be recognized as products of their own time. Alterations that have no historical basis or which seek to create an earlier appearance shall be avoided.
8. Visual integrity/style: Distinctive stylistic features, such as a line of columns, piers, spandrels, or other primary structural elements, or examples of skilled craftsmanship which characterize a building, shall be maintained or restored as far as is practicable.
9. Replacement or additional materials: Whenever possible, deteriorated architectural features shall be repaired rather than replaced. In the event replacement of an existing feature is necessary, or an addition is proposed, new materials should match those of the original building, to the extent possible, in composition, design, color texture, and other visual qualities.
10. Buffering: An appropriate buffer or screen, as provided under Section 413, may be required when a new commercial or industrial improvement or use is proposed on or adjacent to a designated resource, or within or adjacent to an historic district.

SECTION 323 - HISTORIC PRESERVATION OVERLAY ZONE HP

- F. Appeals: Appeals shall be heard by the City Council as per Section 1002 of this Ordinance.

323.7 Maintenance and repair

- A. Nothing in this Ordinance shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature which does not involve a change in design, material, or appearance of such feature or which the Building Official shall certify is required for public safety due to an unsafe or dangerous condition.

323.8 Demolition

- A. Notification of demolition request: If an application is made for a building permit to demolish all or part of a designated cultural resource, to the extent that the historic designation is affected, the Building Official shall, within seven days of the receipt of an application, transmit a copy of the application to the Committee. This review applies to all resources determined to be "Significant" or "Contributing" on the inventory. Resources determined to be "Unrankable" shall first complete the process referred to in subsection 323.5.
- B. Property owner action: For a period of not less than 30 days prior to the public hearing the property owner shall:
1. List the property for sale with a real estate agent for a period not less than 90 days with the intent of selling or relocating the resource intact. Such real estate agent shall advertise the property in local and state newspapers of general circulation in the area. This listing requirement can be reduced if the Committee approves the demolition request.
 2. The owner shall give public notice by posting a visible "For Sale" sign on the property which shall be in bold letters no less than 6" in height and shall read as a minimum: HISTORIC BUILDING FOR SALE - WILL BE DEMOLISHED UNLESS MOVED.
 3. Prepare and make available any information related to the history and sales of the property to all individuals, organizations, and agencies who inquire.
- C. Public hearing review: The Committee shall hold a public hearing within forty-five days of application. The procedures shall be the same as those in subsection 1011.3, Minor Quasi-Judicial review, substituting the Historic Review Committee for the Planning Commission.
- D. Review criteria and findings: In determining the appropriateness of the demolition, as proposed in an application for a building permit, the Committee shall consider the following:
1. All plans, drawings, and photographs as may be submitted by the applicant:
 2. Information presented at a public hearing held concerning the proposed work;

SECTION 323 - HISTORIC PRESERVATION OVERLAY ZONE HP

3. The City of Milwaukie Comprehensive Plan, including the economic, social, environmental, and energy consequences;
 4. The purpose as set forth in subsection 323.1;
 5. The criteria used, and findings and decisions made, in the original designation of the landmark or historic district in which the property under consideration is located;
 6. The historical and architectural style, design, arrangement, materials, or its appurtenant fixtures; the relationship of such features to similar features of other buildings within the district and the position of the building or structure in relation to public rights-of-way and to other buildings and structures in the area;
 7. The effects of the proposed work upon the protection, enhancement, perpetuation, and use of the district which cause it to possess a special character or special historic or aesthetic interest or value; and
 8. Whether denial of the permit would involve substantial hardship to the applicant, and whether issuance of the permit would act to the substantial detriment of the public welfare and would be contrary to the intent and purposes of this Ordinance.
- E. Approval of demolition request/appeals: The Committee may approve the demolition request after considering the criteria under subsection 323.8.D, above. Action by the Committee approving the issuance of permit for demolition may be appealed to the City Council by any aggrieved party, by filing a notice of appeal, in the same manner as provided in subsection 323.6.F. If no appeal is filed, the Building Official shall issue the permit in compliance with all other codes and ordinances of the City.
- F. Denial/stay of demolition:
1. The Committee may reject the application for permit if it determines that in the interest of preserving historic values, the property should not be demolished. In that event, issuance of the permit shall be suspended for a period not exceeding thirty days from the date of public hearing. The Committee may invoke an extension of the suspension period if it determines that there is a program or project under way which could result in public or private acquisition of the landmark, and that there is reasonable ground to believe that such program or project may be successful. Then the Committee, at its discretion, may extend the suspension period to thirty days, to a total of not more than one hundred twenty days from the date of public hearing for demolition permit.
 2. If all such programs or projects are demonstrated to the Committee to be unsuccessful and the applicant has not withdrawn his application for demolition permit, the Building Official shall issue such permit, if the application otherwise complies with the codes and ordinances of the City.

SECTION 323 - HISTORIC PRESERVATION OVERLAY ZONE HP

3. Action by the Committee suspending issuance of the permit for demolition may be appealed to the City Council by the applicant for the permit, by filling a notice of appeal in the same manner as provided in subsection 323.6.F.

323.9 Uses permitted

- A. Primary uses: A resource may be used for any use which is allowed in the underlying district, subject to the specific requirements for the use, and all other requirements of this Section.
- B. Conditional uses: Except within low and moderate density residential designations, uses identified in subsection 323.9.C below which would not be allowed in the underlying zones may be allowed when such use would preserve or improve a resource which would probably not be preserved or improved otherwise, subject to the provisions of subsection 323.6. Such uses may also be allowed in the low and moderate density residential designations if located along minor or major arterial streets. Approval of such uses shall include conditions mitigating adverse impact of the use on neighboring properties and other requirements as per Section 600 of the Zoning Ordinance (Conditional Uses).
- C. The following uses may be permitted after a public hearing conducted pursuant to subsection 1011.3 of the Zoning Ordinance:
 1. Art and music studios
 2. Galleries
 3. Offices/clinics
 4. Craft shops
 5. Bed and breakfast establishments
 6. Gift shops
 7. Museums
 8. Catering services
 9. Bookstores
 10. Boutiques
 11. Restaurants
 12. Antique shops
 13. Community centers for civic or cultural events
 14. Other uses determined by the Planning Commission to be similar to those listed above.

SECTION 324 - BUSINESS INDUSTRIAL ZONE BI

324 BUSINESS INDUSTRIAL ZONE BI

324.1 Purpose

This section is adopted to implement the policies of the Comprehensive Plan for industrial land uses providing a mix of clean, employee-intensive industrial and office uses, with associated services, in locations supportive of mass transit, and the regional transportation network.

324.2 Uses permitted outright

- A. The following business and industrial uses are allowed outright subject to the standards of subsection 324.6.
 - 1. Experimental, research, film, or testing laboratories, provided no operation shall be conducted or equipment used which would create hazards and/or nuisances off the site.
 - 2. Manufacturing, processing, fabrication, packaging, or assembly of products from previously prepared materials.
 - 3. Printing, publishing, bookbinding, graphic, or photographic reproduction, blueprinting, or photo processing.
 - 4. Trade schools primarily serving the business community within the area.
- B. Business and professional offices, including product design, sales, service, packaging; corporate headquarters or regional offices.
- C. Warehousing and distribution.
- D. Any other use similar to the above uses but not listed elsewhere.

324.3 Accessory uses

- A. Uses accessory to and in conjunction with uses permitted outright may include:
 - 1. Employee lounges and dining rooms, employees day-care facilities, conference rooms for tenant use, newsstands, central mail room and self-service postal and banking facilities, and products information and display areas.
 - 2. Executive, administrative, design, or product showroom offices provided in conjunction with uses listed under subsection 324.2 above.
 - 3. Indoor and outdoor recreational facilities, such as swimming pools, saunas, game and craft rooms, exercise and dance studios, community meeting rooms, lounges, playgrounds, tennis and other courts, bike and walking trails, and pedestrian plazas and courts, which are provided in association with uses listed in subsection 324.2 above.

SECTION 324 - BUSINESS INDUSTRIAL ZONE BI

4. Rental and development information offices, handyman and maintenance services and other business offices and services in association with allowed uses in the development.
5. Recycling center, provided that any storage of materials shall be adequately screened.
6. Accessory uses and structures not otherwise prohibited which are customarily accessory and incidental to any outright permitted or limited use.
7. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.

324.4 Limited uses

- A. Limited retail or service uses may be allowed that primarily service the needs of BI Zone clients, employees, and businesses, as opposed to the general public. These uses, subject to the provisions of subsection 324.4.B below, shall include:
 1. A restaurant or deli, offering at least breakfast and/or lunch items, without a drive-in or drive-through service;
 2. Office supply and equipment, sales or service;
 3. Personal service businesses such as a barber, beauty parlor, tailor, dressmaking, shoe repair shop, self-service laundry, dry cleaning, photographer, instruction studios, or similar uses;
 4. A bank or other financial institution;
 5. A computer or other similar small electronic office machines store, sales and service;
 6. Any other use similar and compatible to the above listed uses.
- B. Limitations and conditions on the development of the limited uses itemized above shall be as follows:
 1. All limited uses shall be located, arranged, and integrated within the district to serve primarily the shopping and service needs of clients, businesses, and employees of the district.
 2. Limited uses may occupy up to a maximum of 25% of the square footage of a building. A limited use that is to be located in a building and exceeds 25% of the building's square footage shall be reviewed as a conditional use.
 3. Maximum floor area for a limited use shall be 4,000 square feet.
 4. All limited uses shall comply with the standards under subsection 324.6.

SECTION 324 - BUSINESS INDUSTRIAL ZONE BI

324.5 Conditional uses

- A. Conditional uses may be established in a Business Industrial District subject to review and action on the specific proposal, pursuant to Section 600 (Conditional Uses). Approval shall not be granted unless the proposal satisfies the criteria in Section 600, and, in addition, the proposed use:
1. Will have minimal adverse impact on the appropriate development of outright permitted uses on abutting properties and the surrounding area considering location, size, design, and operating characteristics of the use;
 2. Is compatible with the character and scale of uses allowed within the district and on a site no larger than necessary for the use and operational requirements of the use;
 3. Will provide vehicular and pedestrian access, circulation, parking and loading areas which are compatible with uses on the same site or adjacent sites;
 4. Is a needed service/product in the district, considering the mix of potential clientele and the need to maintain high quality development in a highly visible area.
- B. Uses allowed subject to the above conditions are:
1. Public and private community buildings, indoor and outdoor recreational facilities, such as swimming pools, racquetball clubs, athletic clubs, health and exercise spas, gymnasiums, tennis courts, playground, and other similar uses, developed to serve primarily the recreational needs of clients and employees of the district.
 2. Mini-warehousing, mini-storage, public storage, and similar commercial facilities that lease storage space to the general public.
 3. A limited use or uses that exceed 25% of the building's square footage as per subsection 324.4.B.2 above.

324.6 Standards

In the BI District, the following standards shall apply to all uses:

- A. Lot size: None, except that lots created shall be of a size sufficient to fulfill the applicable standards of this district.
- B. Front yard: A front yard shall be at least 20 feet unless additional setback is required in subsection 324.6.E below.
- C. Side yard: No side yard shall be required except on corner lots where a side yard shall be at least 10 feet on the side abutting the street, unless additional setback is required in subsection 324.6.E below.

SECTION 324 - BUSINESS INDUSTRIAL ZONE BI

- D. Rear yard: No rear yard shall be required except as provided in subsection 324.6.E below.
- E. Yard abutting a major street: A yard abutting a major street listed in Section 410 shall be established in accordance with the standards set forth herein.
- F. Off-street parking and loading: As specified in Section 500.
- G. Site access: One curb cut (45 feet maximum) per 150 feet of street frontage, or fraction thereof, for industrial uses; and one curb cut per 100 feet of street frontage or fraction thereof, for business park, limited, or conditional uses.
- H. Height restriction: Maximum height of a structure shall be three stories or 45 feet, whichever is less, but higher structures may be permitted under the provisions of Section 707 provided solar access is not restricted for adjacent properties.
- I. Landscaping: 15% of the site must be landscaped, except for sites adjacent to Hwy. 224, which shall provide landscaping to 20% of the site. This should consist of a variety of lawn, trees, shrubbery, and ground cover. Street trees must be provided along street frontages and within required off-street parking lots to help delineate entrances, provide shade and permeable areas for storm water runoff. A bond or financial guarantee for landscape completion shall be required.
- J. Screening and outside storage: Outside storage adjacent to International Way, Freeman Way, 37th Ave., Lake Road, or Hwy. 224 is prohibited.

Outside storage in side or rear yards is allowed, provided it is enclosed by a sight-obscuring fence or vegetative screen.

- K. Building siting and design:

Buildings and sites shall be designed using the following principles:

1. Sites shall be developed to the maximum extent practicable, so that buildings have solar access and utilize other natural features in their design;
2. Assure that building placement and orientation and landscaping allow ease of security surveillance;
3. Design buildings with shapes, colors, materials, textures, lines, and other architectural design features which enhance the character of the district and complement the surrounding area and development, considering, but not limited to, the following techniques:
 - a. Use color, materials, and architectural design to visually reduce the scale and impact of large buildings;

SECTION 324 - BUSINESS INDUSTRIAL ZONE BI

- b. Use building materials and features that are durable and consistent with the proposed use of the building, level of exposure to public view, and exposure to natural elements;
- 4. To the extent possible, screen or mask roof-mounted mechanical equipment, except solar collection apparatus, from view;
- 5. Orient major service activity areas (e.g., loading, delivery and garbage collection, etc.) of the development away from major streets;
- 6. Arrange use and buildings to maximize opportunities for shared circulation, access, parking, loading, pedestrian walkways and plazas, recreation areas, and transit-related facilities.
- 7. Provisions for bus shelters, bike racks, street furniture, kiosks, drinking fountains, art sculptures, and/or other pedestrian and transit amenities should be considered.
- L. Nuisances: The use shall not be of a type or intensity which produces dust, odor, smoke, fumes, noise, glare, heat, or vibrations which are incompatible with other uses allowed in this zone; and the use does not produce off-site impacts that create nuisance as defined by the Oregon D.E.Q. and the City Noise Ordinance.

324.7 Validity of uses

In the BI Zone, uses that are subject to the provisions of this zone and were legally established/occupied on or prior to the effective date of the zone, shall be considered as legally approved permitted, limited, or conditional uses as described by the BI Zone.

SECTION 325 - McLOUGHLIN CORRIDOR OVERLAY ZONE MC

325 McLOUGHLIN CORRIDOR OVERLAY ZONE MC

325.1 Purpose

The McLoughlin Corridor Overlay Zone (MC) is intended to guide development along McLoughlin Boulevard consistent with McLoughlin Boulevard improvements, downtown/riverfront redevelopment concepts, and the Comprehensive Plan. This overlay zone will discourage auto-oriented activities, enhance traffic flow on McLoughlin Boulevard, promote landscaped areas as a corridor enhancement and provide design guidelines for new development.

325.2 Applicability

This overlay zone is applicable to properties along McLoughlin Boulevard in downtown Milwaukie, designated MC on the City Zoning Map.

325.3 Uses permitted

- A. Uses permitted in the McLoughlin Corridor Overlay Zone shall be as specified in the primary zoning district permitted use and conditional use subsections.
- B. In addition to the above, eating establishments shall also be permitted outright.

325.4 Prohibited uses

- A. Uses prohibited in the McLoughlin Corridor Overlay Zone shall be as specified in the primary zoning district.
- B. Additional prohibited uses for properties within this overlay zone are listed as follows:
 - 1. Auto service and related uses including gas and service stations, and vehicle repair facilities and parts sales.
 - 2. Retail trade establishments that have high trip generation rates such as convenience stores.
 - 3. Single-family attached and detached dwellings.
 - 4. Agricultural uses.
 - 5. Marinas, boat sales and repair, and related services (east of McLoughlin Boulevard).
 - 6. Drive-thru facilities.
 - 7. Uses similar to the above.

325.5 Development standards

- A. Standards of the primary zoning district are applicable except where superseded in this Section. If a conflict of standards arises, the standards of the MC Overlay Zone will govern.
- B. Setback from McLoughlin Blvd: A setback of 10 feet is required from the McLoughlin Boulevard planned right-of-way for one- and two-story buildings. Three-story and greater buildings require a 15-foot setback.

SECTION 325 - McLOUGHLIN CORRIDOR OVERLAY ZONE MC

- C. Landscaping: In addition to the landscaping provisions of the primary zoning district, the McLoughlin Boulevard setback area shall be landscaped. Street trees shall also be provided no more than 5 feet from the planned right-of-way and spaced no more than 40 feet apart.
- D. Access: Access provisions are as follows:
 - 1. To the maximum extent possible, access drives and curb cuts shall be provided to secondary streets rather than to McLoughlin Boulevard
 - 2. Access drives and curb cuts shall be consolidated or shared between uses to minimize the number of access points to McLoughlin Boulevard
 - 3. Multiple access drives and curb cuts from a single use onto McLoughlin Boulevard will not be allowed if secondary street access is available.
 - 4. Curb cut distance separation on McLoughlin Boulevard from street intersections shall be at a minimum of 100 feet.
 - 5. Curb cut distance separation on McLoughlin Boulevard from other driveway curb cuts shall be at a minimum of 100 feet.
- E. Design plan: For properties zoned MC, a design plan shall be required for new development of vacant lots or redevelopment of existing properties. The plan shall incorporate the design guidelines of subsection 325.6 and specifically include the following:
 - 1. For proposals west of McLoughlin Boulevard, show how all adjacent properties in the area can be integrated in a coordinated manner. Include public and private properties and indicate whether the development is to be phased.
 - 2. For proposals west of McLoughlin Boulevard, view corridors to the Willamette River (including Washington and Jefferson Streets, and Harrison/17th at McLoughlin Boulevard) shall be protected or enhanced as much as possible. Building orientation, design, and height limitations shall be considered in protecting or enhancing view corridors.
 - 3. For all proposals, provide continuity and/or compatibility of landscaping, circulation, access, public facilities, and other improvements between the proposed and adjacent properties and uses. This may include grouping landscaped areas and shared access and/or parking.

325.6 Design guidelines

- A. Building and sites shall be designed using the following principles:
 - 1. Sites shall be developed so that buildings utilize existing on-site natural features in their design, to the maximum extent possible.

SECTION 325 - McLOUGHLIN CORRIDOR OVERLAY ZONE MC

2. Assure that building placement and orientation and landscaping allow ease of security surveillance.
3. Design building with shapes, colors, materials, textures, lines, and other architectural design features which enhance the character of the district and complement the surrounding area and development, considering, but not limited to, the following techniques:
 - a. Use color, materials, and architectural design to visually reduce the scale and impact of large buildings;
 - b. Use building materials and features that are durable and consistent with the proposed use of the building, level of exposure to public view, and exposure to natural elements.
4. To the extent possible, screen or mask roof-mounted mechanical equipment, except solar collection apparatus, from view.
5. Orient major service activity areas (e.g., loading, delivery, and garbage collection, etc.) of the development away from McLoughlin Boulevard.
6. Arrange use and buildings to maximize opportunities for shared circulation, access, parking, loading, pedestrian walkways and plazas, recreation areas, and transit-related facilities.
7. Provisions for bus shelters, bike racks, street furniture, kiosks, drinking fountains, art sculptures, and/or other pedestrian and transit amenities should be considered and coordinated with City standards.
8. Protect or enhance natural amenities (such as the Kellogg Lakefront, Kellogg and Johnson Creek frontages, and associated wooded areas) and incorporate them into the site design.
9. Provide landscaping that improves the appearance and aesthetics of the McLoughlin Corridor.

325.7 Height bonus

Up to one additional story may be permitted in excess of the maximum height limit when an additional fifteen (15) percent of site area is retained in open space provided such height does not interfere with view corridors. Open space may include landscaping, natural features, plazas, and any uncovered and improved pedestrian areas.

325.8 Development review

- A. All new development or improvements requiring a building permit shall be reviewed by a Type II Administrative review as per subsection 1011.2, except for those properties where Willamette Greenway review is also required, in which case this review will coincide with the Willamette Greenway review.

SECTION 325 - McLOUGHLIN CORRIDOR OVERLAY ZONE MC

B. Criteria: Review criteria shall be:

1. The standards of the primary zone district.
2. The development standards of subsection 325.5, and
3. The design guidelines of subsection 325.6.
4. Conformance with Comprehensive Plan policies regarding McLoughlin Boulevard, the downtown, and riverfront area.

C. Application: Applications shall be submitted in a form approved by the Community Development Director which enables the applicant to address each of the criteria.

325.9 Validity of uses

In the MC Overlay Zone, uses prohibited by this overlay zone that were legally established or occupied on or prior to the effective date of this overlay zone shall be considered as legal nonconforming uses.

325.10 Nonconforming uses

- A. Milwaukie Code provisions regarding construction of, discontinuance, improvement, or change of nonconforming uses, as contained in Section 800 are applicable to uses within the MC Overlay Zone.
- B. In addition to meeting requirements as specified in Section 800, development proposals involving nonconforming uses or structures must also comply with the setback, landscaping and access standards of the MC Overlay Zone.

SECTION 400

SUPPLEMENTARY REGULATIONS

401 ACCESSORY USES, GENERAL PROVISIONS

401.1 Limitations

Accessory uses shall comply with all requirements for the principal use except where specifically modified by this Ordinance and shall comply with the following limitations:

- A. Fences, walls and plantings may be constructed or maintained in yards with the following limitations:

Fences, walls, or plantings shall be constructed or maintained in yards only so as to permit unobstructed vision of passenger vehicle operations when approaching intersecting streets or driveways. Fences, walls, and plantings on lot perimeters in areas other than those obstructing the vision of passenger vehicle operators shall be constructed or maintained so as to ensure light and air and maintain aesthetic freedom for adjacent properties. A fence, wall or planting over the height of six (6) feet shall be presumed to be confining and detrimental to adjacent properties.
- B. A greenhouse or hothouse may be maintained accessory to a dwelling provided nothing grown is sold on the premises.
- C. A guest house without kitchen facilities may be maintained accessory to a dwelling.
- D. Regardless of the yard requirements of the zone, a side or rear yard may be reduced to 3 feet for an accessory structure erected more than 60 feet from a street other than an alley provided the structure is detached from other buildings by 6 feet or more and does not exceed a height of one story nor an area of 480 square feet.
- E. A home occupation shall: not occupy more than one quarter of the ground floor area of the dwelling; maintain the residential character of the building; not have the outward appearance of a business; not detract from the residential character of the neighborhood; not involve outside display or storage of merchandise, materials, or equipment on the premises; not cause noise, odor, smoke, gases, fallout, vibration, heat, or glare to be detectable beyond the limits of the property; not involve the use of detached garage; not have more than five enrollees for instruction as a home occupation. Home occupation applications shall be processed per the procedures outlined in Section 1011.1, Type I Administrative review
- F. Keeping of livestock or poultry shall be in buildings that fully comply with building and sanitary codes. The keeping of chickens or other domestic or domesticated fowl shall not exceed 50 in number and shall require the written consent of all owners of real property (or a part thereof) within 100 feet of any point on the boundary of the property on which the chickens or domesticated fowl are proposed to be kept.

SECTION 400 - SUPPLEMENTARY REGULATIONS

- G. Keeping of colonies of bees shall be prohibited except that the Planning Commission may approve an application to keep not more than two colonies of bees whenever such application is accompanied by the written consent of all the owners of real property (or a part thereof) within 100 feet of any point on the boundary of the property on which the bees are proposed to be kept.
- H. Regardless of the yard requirements of the zone, a side, rear, or front yard may be reduced to three feet for an uncovered patio or deck or swimming pool not exceeding 18 inches in height above the average grade of the adjoining ground (finished elevation).
- I. Amateur and CB radio equipment and operations shall be considered an accessory use. Radio and television structures or towers outside of dwellings shall be subject to building regulations. Such structures and towers shall conform to height, yard and other standards of the Zoning Ordinance. Any deviation from these standards will require a variance by the Planning Commission. Operational characteristics and limitations of such equipment shall be as established and administered by the FCC.

402 STORAGE IN FRONT YARD

Vehicles that are partially dismantled or do not have a valid State license shall not be stored more than ten days in a required front yard or street side yard. All vehicles, licensed or unlicensed, shall be stored in driveway areas only. Vehicles used for commercial purposes (such as trucks) shall be screened or stored from view of the street.

403 CLEAR VISION AREAS

A clear vision area shall be maintained on the corners of all property at the intersection of two streets or a street and a railroad according to the provisions of the Clear Vision Ordinance.

404 MAINTENANCE OF MINIMUM ORDINANCE REQUIREMENTS

No lot area, yard, other open space, or off-street parking or loading area shall be reduced by conveyance or otherwise below the minimum requirements of this Ordinance, except by dedication or conveyance for a public use.

405 DUAL USE OF REQUIRED OPEN SPACE

No lot area, yard, or other open space or off-street parking or loading area which is required by this Ordinance for one use shall be used to meet the required lot area, yard, or other open space or off-street parking area for another use, except as provided in subsection 503.1.C.

406 BUILDINGS ON THE SAME LOT

A minimum distance of 6 feet shall be maintained between a building designed for dwelling purposes and other buildings on the same lot. In R-10, R-7, R-5, and R-3 zones only one building designed for dwelling purposes shall be permitted per lot.

SECTION 400 - SUPPLEMENTARY REGULATIONS

407 DISTANCE FROM PROPERTY LINE

Where a side or rear yard is not required and a structure is not to be erected at the property line, it shall be set back at least 3 feet from the property line.

408 PROJECTIONS FROM BUILDINGS

Architectural features such as cornices, eaves, canopies, sunshades, gutters, steps, unroofed landings, and flues may project up to 24 inches into a required side yard or 36 inches into a required front or rear yard.

409 LOT SIZE REQUIREMENTS, GENERAL EXCEPTIONS

If a lot or the aggregate of contiguous lots or parcels platted prior to effective date of this Ordinance has an area or dimension which does not meet the requirements of this Ordinance, the lot or aggregate holdings may be put to a use permitted outright subject to the other requirements of the zone in which the property is located except that a residential use shall be limited to a single-family dwelling or to the number of dwelling units consistent with the density requirements of the zone. However, no dwelling shall be built on a lot with less area than 3,000 square feet, or with no frontage on a public street.

410 YARD REQUIREMENTS, GENERAL EXCEPTIONS

410.1 Exceptions

The following exceptions to the yard requirements are established for a lot in any one:

- A. The required front yard need not exceed the average depth of the two abutting front yards within 100 feet of the proposed structure.
- B. The required front yard need not exceed the average depth of the abutting front yard within 100 feet of the proposed structure and the required front yard depth.
- C. To ensure better light, air, and vision on more heavily traveled streets, any yard abutting a major street listed in the following Table 1 shall be established so that the minimum distance from the centerline of the street to the face of any structure shall be as specified.

Table 1

<u>Major Street</u>	<u>Distance from Centerline</u> (plus yard requirements in zone)
Harmony Road	40 feet
Harrison Street (Milwaukie Expressway to 44th) . .	40 feet
Harrison Street (Milwaukie Expressway to McLoughlin)	30 feet
Harvey Street (32nd to 42nd)	30 feet
Home Avenue	30 feet
Johnson Creek Boulevard	30 feet

SECTION 400 - SUPPLEMENTARY REGULATIONS

King Road	40 feet
Linwood Avenue	40 feet
Lake Road	30 feet
Logus Road	25 feet
McLoughlin Boulevard	50 feet
Monroe Street (52nd to Linwood)	30 feet
Oak Street	30 feet
Oatfield Road	30 feet
Ochoco Street	30 feet
Railroad Avenue	30 feet
River Road (Ochoco to McLoughlin)	40 feet
River Road (south of 6th Street)	30 feet
Roswell Avenue	25 feet
Washington Street (west of Railroad)	30 feet
7th Avenue	30 feet
21st Street	30 feet
32nd Street (north of Harrison)	30 feet
40th Street (Harvey to Railroad)	40 feet
42nd Street (north of Harvey)	30 feet
43rd Street (south of Covell)	30 feet

411 BUILDING HEIGHT LIMITATIONS, GENERAL EXCEPTIONS

Projections such as chimneys, spires, domes, elevator shaft housings, flagpoles and other similar objects not used for human occupancy are not subject to the building height limitations of this Ordinance, except as provided in an L-F Zone.

412 ADDITIONAL BUILDING HEIGHT

One additional story may be permitted in excess of the required maximum standard. An additional 10 percent of site area that is retained in vegetation beyond the minimum is required for each additional story. This provision does not apply to the R-10, R-7, or R-5 Zones.

413 TRANSITION AREA

413.1 Transition measures

In zones where town house, multifamily, commercial or industrial projects are proposed that are within 100 feet of areas designated for lower density, transition measures shall be made in order to minimize the impact on lower density uses. These measures shall

SECTION 400 - SUPPLEMENTARY REGULATIONS

be subject to Planning Commission review at a public hearing per subsection 1011.3, Minor Quasi-Judicial review, and shall include one or a combination of the following: The Planning Commission may apply conditions to such approval as will meet the objectives of this Section.

- A. Roadways separating projects.
- B. Open areas (developed or undeveloped) separating new structures from adjacent parcels. A minimum distance equal to the required front yard of adjacent parcels will be established and maintained as open area. Natural vegetation, landscaping or fencing will be provided to the six foot level to screen living rooms from direct view across open areas.
- C. Gradual density changes. A new project may not have a density greater than 25 percent of the allowable density on lower density residential parcels abutting the project. If abutting parcels have a variety of allowable residential densities, parcels with similar allowable densities abutting the highest percentage of the project perimeter will govern.

414 MINIMUM VEGETATION

In the vegetation area a maximum of area shall be for planting and a minimum for bark dust. Plans for development shall include landscaping plans which shall be reviewed for conformance to this standard.

415 DENSITY AND DEDICATION OF PARK LAND

In exchange for the dedication of park land, residential density may be increased (and lot sizes decreased) so that overall parcel density remains the same.

416 DENSITY AND HOUSING COST

For any housing development proposed, an additional housing unit will be allowed for each unit priced for sale at twenty-five (25) percent below the average new single-family housing cost. The cost shall be that established in the most recent edition of "Real Estate Trends", published semiannually by the Metropolitan Portland Real Estate Research Committee, Inc. Overall project density may not exceed the allowable density plus ten (10) percent. The planned unit development density increase specified in Section 319 and this density increase are additive.

417 TEMPORARY STRUCTURE PERMITS

417.1 Requirements for approval

Upon application of the property owner, the Community Development Director may approve the location of a temporary structure, such as a mobile home, motor home or trailer house, for use as a temporary residence during construction of a permanent dwelling for a period not to exceed 12 months where:

- A. There is an emergency hardship resulting from a natural catastrophe such as fire, flood, storm, etc.;
- B. The applicant has applied for a building permit for a permanent dwelling;

SECTION 400 - SUPPLEMENTARY REGULATIONS

- C. The temporary structure will be owner-occupied;
- D. The use is consistent with the Milwaukie Comprehensive Plan;
- E. There is no other reasonable alternative to use of a temporary structure.

417.2 Approval conditions

In addition, the applicant must satisfy the following conditions for approval:

- A. City approval of a sewage disposal system for the structure.
- B. Screening of the structure to minimize any adverse visual impact on surrounding property.
- C. Placement of manufactured skirting around the structure.
- D. Any other condition imposed by the Community Development Director to safeguard the public health, safety, convenience and general welfare.

417.3 Review process

Applications for temporary structures shall be processed according to subsection 1011.2, Type II Administrative review.

418 MOBILE HOME PARKS

418.1 Purpose

This Section is intended to complement the policies of the Comprehensive Plan to provide for a variety of housing types including mobile home parks in areas with suitable services and facilities in zones allowing 6-12 dwelling units per acre.

418.2 Application

Mobile home park developments are only allowed in the R-3, R-5, and R-7 Zones. A site plan review is required prior to development of a mobile home park within these zones. The development must show conformance with all requirements of this Section.

Each application for a mobile home park shall include a plot plan drawn to scale of the specific layout of the entire park. The plot plan shall include both the dimensions and the existing and proposed locations of all utilities, roadways, structures, parking, landscaping and open areas, and mobile home spaces on the site. In addition, the location of structures on adjacent properties shall be shown.

418.3 General requirements

Mobile home parks shall be subject to review under subsection 1011.3 of the Zoning Ordinance, Minor Quasi-Judicial review.

418.4 Development requirements

All mobile home parks shall meet the following minimum requirements:

- A. The minimum size of a mobile home park shall be 2 acres.

SECTION 400 - SUPPLEMENTARY REGULATIONS

- B. The number of units allowed in the mobile home park will be subject to the density requirements of the underlying zone after 15% of the site has been deducted for access drives.
- C. A minimum setback of 15 feet will be observed between all mobile homes and the outer boundary of the mobile home park. Exterior boundaries of the park shall be screened to a height of 6 feet by a sight obscuring solid wall, fence, or evergreen or other suitable hedge planting, exclusive of required openings.

It shall be the responsibility of the property owner to install and maintain required landscaping and irrigation systems.

- D. Each mobile home unit or accessory structure shall maintain a minimum 10-foot setback from the private street and the nearest point of the unit or accessory structure. If the mobile home space is on the side of a private street bounded by a sidewalk, the unit or accessory structure shall be set back 10 feet from the sidewalk. Each unit or accessory structure shall be separated from any unit or accessory structure on an adjacent space by a minimum of 15 feet.
- E. A minimum of 15% of the gross site area shall be reserved for common open space for the use of all residents. Open space requirements may include up to 100 square feet per unit of indoor facilities. Outdoor open space areas should be suitably landscaped.
- F. A mobile home park shall have an entrance drive from a public street. Access to individual units shall be from private streets within the site which have a minimum width of 24 feet of paving from curb to curb. A paved sidewalk shall be provided along at least one side of each private street in the park and shall be a minimum of 3 feet in width. Parking shall be permitted on one side of those private streets constructed with a minimum width of 30 feet of paving.
- G. Off-street parking and recreational vehicle parking shall be provided as per Section 500 of the Zoning Ordinance. If 24-foot-wide streets are constructed, an additional off-street parking space per each two mobile home spaces shall be provided as visitor spaces. These parking spaces shall be within 100 feet of the mobile homes they serve.
- H. Except for a structure which conforms to the State definition of a mobile home accessory structure, no other extension shall be attached to a mobile home, except a garage or carport constructed to the specifications of the Oregon State Structural Specialty Code.
- I. All mobile homes shall be set onto an excavated area with perimeter foundation, and the excavated area shall be backfilled, or the home must be installed with an approved foundation siding/skirting enclosing the entire perimeter of the home. Foundation siding/skirting and back-up framing shall be weather-resistant, noncombustible, or self-extinguishing materials which blend with the exterior siding of the home. Below grade level and for a minimum distance of six (6) inches above finish grade, the materials shall be resistant to decay or oxidation. The siding shall be installed in accordance with manufacturer's recommendations or approved equal standards.

SECTION 400 - SUPPLEMENTARY REGULATIONS

- J. Requirements for lighting, utility systems, decks, play areas, park sanitation and maintenance not specified herein shall be those specified in OAR 814-28, Mobile Home Parks and OAR 814-23, Mobile Homes, Manufactured Homes, Recreational Vehicles and Accessory Buildings or Structures.
- K. Standards of the underlying zone also apply except where otherwise provided for in this Section.
- L. The entire mobile home park shall comply with the above requirements prior to occupancy.

419 MANUFACTURED HOME PLACEMENT

419.1 Purpose

This Section is intended to meet State legislative requirements for the placement of manufactured homes on individual lots and to provide standards for unit placement.

419.2 Applicability

Manufactured homes placed on individual lots are subject to the provisions of this section. Treatment of manufactured homes by zones is shown on the following table:

**Table 2
Manufactured Home Placement by Zone**

Zone	Permitted Outright	Conditional Use	Temporary Permit	Manuf. Home Subdivision
R-10			X	
R-7	X		X	X
R-5		X	X	X
R-3		X	X	X
R-2.5		X	X	X
R-2		X	X	X
R-1-B		X	X	X
R-1		X	X	X
R-O-C		X	X	X

419.3 Definitions

For the purposes of this Section, the following definitions shall apply:

- A. "Manufactured home" means a structure with a Department of Housing and Urban Development (HUD) label certifying that the structure is constructed in accordance with the Manufactured Housing Construction and Safety Standards of 1974 (42 USC Sections 5401 et. seq.) as amended on August 22, 1981.
- B. "Manufactured home subdivision" means a parcel of land intended for and designed specifically to accommodate manufactured homes on single-family residential lots. The parcel shall meet all requirements of the primary zone and all of the requirements of the City of Milwaukie Subdivision Ordinance.

SECTION 400 - SUPPLEMENTARY REGULATIONS

419.4 Siting standards

Manufactured homes placed on individual lots shall meet the following standards:

- A. The unit shall be multisectional (double-wide or wider) and enclose a floor area of not less than 1,000 square feet;
- B. The unit shall be placed on an excavated and backfilled foundation with the bottom no more than 12 inches above grade and enclosed at the perimeter by skirting of pressure treated wood, masonry, or concrete wall construction and complying with the minimum set-up standards of the adopted State Administrative Rules for Manufactured Dwellings, Chapter 918;
- C. The unit shall have a roof with a pitch of at least three (3) inches in twelve (12) inches;
- D. The unit shall have a garage or carport constructed with exterior siding and roofing which, in color, materials, and appearance, matches the manufactured home. The Community Development Director may, at the time of placement permit application, require an attached or detached garage in lieu of a carport where such is consistent with the predominant construction of immediately surrounding dwellings;
- E. The unit shall have exterior siding and roofing which, in color, materials, and appearance, is similar to the exterior siding and roofing material commonly in use on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwellings as determined by the Community Development Director. Materials that shall not be allowed include bare metal siding or roofing.
- F. The unit shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce levels equivalent to the performance standards required of single-family dwellings constructed under the State building code as defined in ORS 455.010;
- G. The unit shall comply with the definition for manufactured home as identified in this Section; and
- H. The unit shall comply with single-family parking and paving standards as described in Section 500.

419.5 Implementation of siting standards

- A. For unit placement on an individual lot within the R-7 Zone, the siting standards shall be administered as part of the building permit process for the unit placement.
- B. For unit placement on an individual lot within those zones allowing placement only by conditional use, the applicant shall apply for a conditional use permit meeting the general conditional use criteria of subsection 601.2 and showing how the proposed unit will meet the siting standards of this Section. Verification of siting standards shall occur as part of the building permit unit placement process.
- C. Manufactured home placement as authorized by the temporary structure permit process of Section 417 is not subject to the siting standards of this Section.

SECTION 400 - SUPPLEMENTARY REGULATIONS

419.6 Manufactured home subdivisions

- A. Manufactured home subdivisions may be allowed outright within the R-7 Zone and by conditional use in the R-5, R-3, R-2.5, R-2, R-1-B, R-1, and R-O-C Zones.
- B. A conditional use request for a manufactured home subdivision shall be filed concurrently with the preliminary plat subdivision application.
- C. The approval criteria for conditional use for a manufactured home subdivision shall be the criteria of subsection 601.2.
- D. Individual manufactured homes placed within a manufactured home subdivision approved by conditional use shall be exempt from additional conditional use approval for placement. Individual placements shall meet the siting standards of this Section.
- E. Manufactured home subdivisions must meet all requirements of the City Subdivision Ordinance.

419.7 Occupancy of units

All approval and siting standards of this Section shall be complied with before a manufactured home placed on an individual lot may be approved for occupancy.

419.8 Review processes

- A. Siting standards of this Section shall be reviewed as part of the building review procedures of subsection 1011.1.
- B. Conditional use reviews shall follow processes and procedures as described in Section 600.
- C. Subdivision processes and procedures are those contained in the City Subdivision Ordinance.

SECTION 500

OFF-STREET PARKING AND LOADING

501 OFF STREET PARKING REQUIREMENTS

At the time a structure is erected or enlarged, or the use of a structure or parcel of land is changed within any zone in the city, off-street parking spaces shall be provided in accordance with the requirements of Section 501 and Section 503 unless greater requirements are otherwise established. The provisions of Section 500 do not apply to the C-C Zone, except for portions of buildings over four stories. If the use of an existing structure or parcel is changed to a use with greater parking requirements, the requirements of this Section and Section 503 shall apply. If parking space has been provided in connection with an existing use, the parking space shall not be eliminated if it would result in less than is required by this Section. Where square feet are specified, the area measured shall be the gross floor area primary to the functioning of the particular use of property, but shall exclude space devoted to off-street parking or loading. Where employees are specified, persons counted shall be those working on premises, including proprietors, during the largest shift at peak season. Fractional space requirements shall be counted as a whole space.

501.1 Residential uses - parking spaces required

- | | | |
|----|---|--|
| A. | Single-family attached
Manufactured home
Single-family detached
For approved flag lots | Two spaces per dwelling unit,
one of which must be covered.
One additional off-street
parking space per dwelling
unit shall be located within
any access strip or required
paved turnaround area. |
| B. | 4-11 dwelling units
Town house
Multifamily condominiums
Multifamily apartment | Two spaces per unit. Over 12
dwelling units:
1.5 spaces - one bedroom
1.75 spaces - two bedrooms
2 spaces - three bedrooms
1 space - 10 feet by 25 feet
for every 12 dwelling units
for recreational vehicles,
boats, etc. |
| C. | Rooming or boarding house,
fraternity, motel, or
tourist court | One space per guest room or
suite, plus one additional
space per two employees. |
| D. | Hotel | One space per two guest rooms
or suites, plus one space per
two employees. |
| E. | Mobile home park | Two spaces per mobile home,
one of which must be covered.
One (1) space - 10 feet by 25
feet for every 10 dwelling
units for recreational
vehicles, boats, etc. |

SECTION 500 - OFF-STREET PARKING AND LOADING

- | | | |
|----|---|--|
| F. | Convalescent, nursing, and other health homes and institutions, homes for the aged, children's homes, and welfare or correctional institutions. | One space per three beds for patients plus one additional space per two employees. |
| G. | Senior, retirement, and handicapped housing | One space per dwelling unit. |

501.2 Public and semipublic buildings and uses - parking spaces required

- | | | |
|----|--|--|
| A. | Auditorium or meeting room (other than church or school) | One space for each 60 square feet of floor area in the auditorium or, where seating is fixed to the floor, one space for each 4 seats or 8 feet of bench length. |
| B. | Church | One space per 80 square feet of floor area in the main assembly area or, where seating is fixed to the floor, one space per 4 seats or 8 feet of bench length. |
| C. | Club, lodge, or association | Spaces to meet the combined requirements of the uses being conducted such as hotel, restaurant, auditorium, etc. |
| D. | Hospital | One and one-half spaces per bed. |
| E. | Library | One space per 400 square feet of reading room plus one space per two employees. |
| F. | Day-care center, kindergarten, equivalent private or parochial school | Two spaces per teacher or staff member. |
| G. | Elementary, junior high, or equivalent private or parochial school | One space per employee or one space per 4 seats or 8 feet of bench in the auditorium or assembly room, whichever is greater. |
| H. | Senior high school, or equivalent private or parochial school | One space per employee or one space per 4 seats or 8 feet of bench length in the auditorium or assembly room, whichever is greater. |
| I. | College, universities, institutions of higher learning and equivalent private or parochial schools | One space per three seats in classrooms. |
| J. | Passenger terminal | One space for each 500 square feet of floor area. |

SECTION 500 - OFF-STREET PARKING AND LOADING

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|----|-------------|---|
| K. | Post office | One space for each 50 square feet of patron service floor area plus one space per employee. |
|----|-------------|---|

501.3 Commercial uses - parking spaces required

- | | | |
|----|--|--|
| A. | Retail store, except as provided in subsection 501.3.B below | One space for each 175 square feet of gross floor area. |
| B. | Service or repair shop or retail store handling bulky merchandise such as automobiles or furniture | One space for each 550 square feet of gross floor area. |
| C. | Bank or office except medical or dental | One space for each 350 square feet of gross floor area. |
| D. | Medical or dental offices or clinics | One space per 275 square feet of gross floor area. |
| E. | Eating or drinking establishment | One space per 175 square feet of gross floor area. |
| F. | Mortuary | One space per four chapel seats or 8 feet of bench length. |

501.4 Commercial recreation uses - parking spaces required

- | | | |
|----|--|--|
| A. | Amusement park | One space for each 1,000 square feet of patron-serving area. |
| B. | Billiard or pool hall | One space per table plus one space per employee. |
| C. | Bowling alley | Five spaces for each alley plus one space per employee. |
| D. | Dance hall, skating rink, or gymnasium | One space per 50 square feet of patron area plus one space per employee. |
| E. | Go-cart track | One space per cart plus one space per employee. |
| F. | Golf driving range | One space per 10 linear feet of driving line. |
| G. | Indoor arena or theater | One space per 4 seats or 8 feet of bench length. |
| H. | Miniature golf course | One space per 2 holes plus one space per employee. |
| I. | Race track or stadium | One space per 4 seats or 8 feet of bench length. |
| J. | Shooting gallery | One space per 500 square feet of floor area plus one space per employee. |

SECTION 500 - OFF-STREET PARKING AND LOADING

K. Swimming pool One space per 50 square feet of pool plus one space per employee.

L. Tennis court One space per court.

501.5 Industrial uses - parking spaces required

A. Manufacturing use One space per employee.

B. Storage or wholesale use One space per employee plus one space per 700 square feet of patron serving area.

502 OFF-STREET LOADING REQUIREMENTS

At the time a structure is erected or enlarged, or the use of a structure or parcel of land changed, within any zone in the City, off-street loading spaces shall be provided in accordance with the requirements of this Section and Section 503 unless greater requirements are otherwise established.

502.1 Merchandise, materials, or supplies

Buildings or structures to be built or substantially altered which receive and distribute material or merchandise by truck shall provide and maintain off-street loading berths, in accordance with standards detailed below. If loading space has been provided in connection with an existing use or is added to an existing use, the loading space shall not be eliminated if elimination would result in less space than is required to adequately handle the needs of the particular use. Off-street parking areas used to fulfill the requirements of this Ordinance shall not be used for loading and unloading operations except during periods of the day when not required to take care of parking needs.

502.2 Requirements for minimum loading spaces

Requirements are in Table 3 as follows:

Table 3

Use	Square Feet of Floor or Land Area	Minimum Loading Spaces Required
Commercial	Under 5,000 square feet	0
	5,000 to 24,999	1
	25,000 to 59,999	2
	60,000 to 99,999	3
	100,000 to 159,999	4
	160,000 to 249,999	5
	250,000 to 369,999	6
	370,000 to 579,999	7
	580,000 to 899,999	8
	900,000 to 2,999,999	9
	OVER 3,000,000	10
Hotel	-0- to 29,999	1
	30,000 to 69,999	2
	70,000 to 129,999	3
	130,000 to 219,999	4
	220,000 to 379,999	5
	380,000 to 699,999	6
	700,000 to 1,499,999	7
	OVER 1,500,000	8

SECTION 500 - OFF-STREET PARKING AND LOADING

<u>Use</u>	<u>Square Feet of Floor or Land Area</u>	<u>Minimum Loading Spaces Required</u>
Manufacturing	Under 5,000 square feet	0
wholesale	5,000 to 39,999	1
storage or	40,000 99,999	2
hospital	100,000 159,999	3
	160,000 239,999	4
	240,000 319,999	5
	320,000 399,999	6
	400,000 489,999	7
	490,000 579,999	8
	580,000 669,999	9
	670,000 759,999	10
	760,000 849,999	11
	850,000 939,999	12
	940,000 1,029,999	13
	OVER 1,030,000	14
Town house and Multifamily		One loading space for each 50 dwelling units.
Commercial Recreation		Same as commercial excluding motion picture theaters.
Motion Picture Theaters		One loading space.
Office or Bank		Same as commercial.
Public or Semipublic		One loading space.

502.3 Loading space area

- A. Town house and multifamily: Each required space shall be at least 12 feet in width and 25 feet in length.
- B. Commercial: Each required space shall be at least 12 feet in width and 35 feet in length.
- C. Industrial: Each required space shall be at least 12 feet in width and 60 feet in length.

502.4 Clearance

The height of each required loading space shall provide a minimum vertical clearance of 13 feet.

502.5 Surfacing

Any area used for off-street loading or unloading of vehicles shall be paved so as to provide a durable and dustless surface capable of carrying a wheel load of 4,000 pounds.

502.6 Passengers

A driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading passengers shall be located on the site of any school or other public meeting place which is designed to accommodate more than 25 persons at one time.

SECTION 500 - OFF-STREET PARKING AND LOADING

503 OFF-STREET PARKING AND LOADING, GENERAL PROVISIONS

503.1 Provisions

The following general provisions shall govern the application of off-street parking and loading requirements:

- A. Requirements for types of buildings and uses not specifically listed herein shall be determined by the Planning Commission based upon the requirements of comparable uses listed.
- B. In the event several uses occupy a single structure or parcel of land, the total requirements for off-street parking and loading shall be the sum of the requirements of comparable uses computed separately.
- C. Owners of two or more uses, structures, or parcels of land may agree to utilize jointly the same parking and loading spaces when the hours of operation do not overlap, provided that satisfactory legal evidence is presented to the City in the form of deeds, leases or contracts to establish the joint use.
- D. Off-street parking spaces for dwellings shall be located on the same lot with the dwelling. Required off-street parking spaces other than for dwellings shall be located not farther than 200 feet from the building or use that they are required to serve, measured in a straight line from the building.
- E. Required parking spaces shall be available for the parking of passenger automobiles of residents, customers, patrons, and employees only, and shall not be used for storage of vehicles or materials or for the parking of delivery vehicles used in conducting the business or use.
- F. Required parking and loading spaces shall not be located in a required front or street side yard except for required off-street parking for one- or two-family dwellings.
- G. A plan drawn to scale and dimensioned, indicating how the off-street parking and loading requirements are to be met, shall accompany an application for a building permit.
- H. Design requirements for parking spaces and loading areas shall be as follows:
 - 1. Any area used for parking, standing, or maneuvering of vehicles shall have paved surfaces drained so as to avoid water standing or flowing onto adjacent properties.
 - 2. Ten percent of the area of the site designated for parking shall be landscaped. The landscaping shall be designed to enhance the appearance of the parking area while maintaining clear vision for traffic safety.

SECTION 500 - OFF-STREET PARKING AND LOADING

3. Except for parking to serve one- or two-family residential uses, parking and loading areas adjacent to or within residential zones or adjacent to residential uses shall be designed to minimize disturbance of residents by the erection between the uses of a sight-obscuring fence of not less than 5 nor more than 6 feet in height except where vision clearance is required.
4. Parking spaces along the outer boundaries of a lot shall be contained by a curb at least 4 inches high and set back a minimum of $4\frac{1}{2}$ feet from the property line. A parking space may extend up to $2\frac{1}{2}$ feet beyond a curb which serves as the boundary of the paved area, and also serves as a wheel stop, providing the following conditions exist:
 - a. The "overhang" distance does not occupy space for required $4\frac{1}{2}$ foot setback between a parking space and a property line.
 - b. The "overhang" does not encroach into a pedestrian sidewalk of adequate width.
 - c. The "overhang" does not prevent or interfere with the provision of appropriate landscaping, where this is called for.
5. Artificial lighting which may be provided shall not create or reflect substantial glare in a residential zone or on any adjacent dwelling.
6. Access shall be provided as follows:
 - a. Where a parking or loading area does not abut directly on a public street there shall be provided an unobstructed drive not less than twelve (12) feet in width for one-way traffic, and not less than twenty (20) feet in width for two-way traffic, leading to a public street, and traffic directions shall be plainly marked.
 - b. Parking and loading spaces in streets or alleys shall not be counted in the fulfilling of any part of these parking and loading requirements.
7. Parking spaces shall have the following sizes:
 - a. At least 50 percent of the required parking spaces shall be at least nine feet in width and 19 feet in length for standard-size cars. Not more than 50 percent may be eight feet in width and 18 feet in length and marked for compact cars. Spaces shall be measured at right angles to the axis of the vehicle and shall be exclusive of access drives, aisles, ramps or columns. Such space shall have a vertical clearance of at least six feet, six inches (6'6").
 - b. Parking spaces for more than twenty (20) employees of industrial uses operating on a regular shift basis may be eight feet in width and 19 feet in length.

SECTION 500 - OFF-STREET PARKING AND LOADING

- c. For parallel parking the length of the parking space shall be 22 feet.
- 8. Aisles for parking shall be arranged as follows:
 - a. Aisles widths shall be no less than:
 - 22' for 90° parking
 - 18' for 2-way traffic 60° parking
 - 17' for 1-way traffic 60° parking
 - 18' for 2-way traffic 45° parking
 - 13' for 1-way traffic 45° parking
 - 18' for 2-way traffic parallel parking
 - 12' for 1 way traffic parallel parking
 - b. Widths for other angles shall be proportional to the above.
 - c. Angle measurements shall be between the centerline of the parking space and the centerline of the aisle.
- 9. Surfacing. Large parking fields for intermittent uses such as parks, racetracks, stadiums, and the like may be surfaced with gravel or grass and spaces may be unmarked if parking is supervised.
- 10. Lighting. Artificial lighting which may be provided shall be deflected so as to not shine into adjoining dwellings or other types of living units, and so as not to create a hazard to the traveling public on any street.
- 11. Groups of five or more parking spaces, in close proximity, shall be served by a driveway so that no backing movements or other maneuvering within a street other than an alley will be required.
- 12. On parking lots having five or more parking spaces, such spaces shall be clearly marked in a permanent manner.
- 13. Service drives to off-street parking areas shall be designed and constructed to facilitate the flow of traffic, and provide maximum safety of pedestrians and vehicular traffic on the site. The number of service drives shall be limited to the minimum that will allow the property to accommodate and service traffic to be anticipated. Service drives shall be clearly and permanently marked and defined through use of rails, fences, walls, or other barriers or markers on frontage not occupied by service drives.
- 14. Service drives shall have a minimum clear vision area formed by the intersection of the driveway centerline, the street right-of-way line, and a straight line joining said lines through points 20 feet from their intersection.

SECTION 600

CONDITIONAL USES

601 AUTHORIZATION TO GRANT OR DENY CONDITIONAL USES

All applications for conditional uses shall be evaluated by the Planning Commission at a public hearing per subsection 1011.3, Minor Quasi-Judicial review, under the specific criteria listed in Section 601 through Section 602. The Planning Commission may approve or deny the application. If the decision is to approve, the Planning Commission may impose any conditions deemed necessary to protect the public health, safety, or general welfare from potentially deleterious effects resulting from approval of the permit, or to fulfill the public need for services created by approval of the request.

Approval of a conditional use shall not constitute a change of zoning classification and shall be granted only for the specific use requested subject to such modifications, conditions and restrictions as may be deemed appropriate by the Planning Commission, or as specifically provided herein.

601.1 Existing use

In the case of a use existing prior to the effective date of this Ordinance and now classified as a conditional use, any alterations, including but not limited to: change in use, lot area, or alteration of structure shall come before the Planning Commission to assure conformance with all current requirements for such a conditional use.

601.2 Applicant's responsibilities

At the public hearing the applicant shall provide evidence that all requirements of this Ordinance relative to the proposed use are satisfied, and demonstrate that the proposed use also satisfies the following criteria:

- A. The use meets the requirements of a conditional use in the zone currently applied to the site.
- B. The use meets the standards for the underlying zone.
- C. The proposal satisfies the goals and policies of the Comprehensive Plan which apply to the proposed use.
- D. The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements and natural features.
- E. The proposed use is timely, considering the adequacy of transportation systems, public facilities and services existing or planned for the area affected by the use.

601.3 Conditions

The Planning Commission may attach conditions and restrictions to any conditional use approved. The setbacks and limitations of the underlying district shall be applied to the conditional use, unless specifically varied by the Commission. Conditions and restrictions may include a specific limitation of uses, landscaping requirements, off-street parking, performance standards, performance bonds and other conditions, restrictions,

SECTION 600 - CONDITIONAL USES

or safeguards that would uphold the intent of the Comprehensive Plan and mitigate any adverse effect upon adjoining properties which may result by reason of a conditional use being allowed.

601.4 Conditional use permit

When a conditional use permit is approved by the Planning Commission, a written permit will be issued to the applicant, in the form of a letter from the Planning staff, prior to development of the use. The permit shall stipulate any modifications, conditions, and restrictions imposed by the Planning Commission, in addition to those specifically set forth in this Ordinance. A "Notice of Conditions" will be recorded with the County Clerk in the deed files. These conditions may be changed after the granting of a permit only by mutual agreement of the Planning Commission and the permit holder. A conditional use permit runs with the land and is not affected by a change of ownership.

- A. The permit shall become void if construction has not begun within six months, or a request has not been made for a time extension.
- B. The Planning Commission may, upon receiving a written request from the applicant, extend the conditional use permit for a period not to exceed one year.

601.5 Reconsideration of a conditional use permit

Approved conditional uses shall be reconsidered by the Planning Commission at a public hearing, after a complaint has been received by the Planning staff, provided the following criteria have been met:

- A. The complaint(s) must be in writing, signed by the complainant, and the required fee must be paid.
- B. The complaint(s) must address one of the following:
 - 1. Violations of the standards listed in the Comprehensive Plan or implementing ordinances for the use involved;
 - 2. Failure to satisfy a condition or restriction imposed on the specific use when approval was granted;
 - 3. Incidents which have occurred as a direct result of the conditional use that are detrimental to the health, safety, property or general welfare of the public.

Reconsideration of a conditional use permit may result in suspension or revocation of the approval under subsection 601.6.

601.6 Suspension or revocation of a permit

A conditional use permit may be suspended or revoked by the Planning Commission when any condition or restriction imposed is not satisfied.

- A. A Conditional use permit shall be suspended only after a hearing before the Planning Commission. Written notice of the hearing shall be given to the permit holder by certified mail at least ten (10) working days prior to the hearing.

SECTION 600 - CONDITIONAL USES

- B. A suspended permit may be reinstated when, in the judgment of the Planning Commission, the conditions or restrictions imposed on the approval have been satisfied within a time frame set by the Planning Commission.
- C. A revoked permit shall not be reinstated. A new application must be made to the Planning Commission, and a public hearing held.

601.7 Review of a conditional use permit upon change in ownership, use or tenant

Upon first learning of the change in ownership, use or tenant, the Director shall conduct an Administrative review of the status of the conditional use permit. If the Director finds that the conditions attached to the permit have not been met, the Director shall notify the new owner or tenant of the conditions and/or restrictions. If the Director deems it necessary to achieve compliance, a hearing before the Planning Commission may be scheduled to consider suspension or revocation of the conditional use permit, in accordance with subsection 601.6.

602 STANDARDS GOVERNING CONDITIONAL USES

A conditional use shall comply with the standards of the zone in which it is located, except as these standards have been modified in authorizing the conditional use and as otherwise modified as follows:

602.1 Yards

In a residential zone, yard width shall be equal to at least two thirds of the height of the principal structure. In any zone, additional yard requirements may be imposed.

602.2 Height exception

A church or public building may be built to exceed the height limitations of the zone in which it is located to a maximum height of 50 feet, except as provided in an L-F Zone, if the total floor area of the building does not exceed one and one-half times the area of the site and if the yard dimensions in each case are equal to at least two-thirds of the height of the principal structure.

602.3 Access to property and building openings

The City may limit or prohibit vehicle access from a conditional use to a residential street, and it may limit or prohibit building openings within 50 feet of residential property in a residential zone if the openings will cause glare or excessive noise or will otherwise adversely affect adjacent residential property.

602.4 Surface mining

In considering a conditional use application for surface mining, the following minimum requirements shall apply:

- A. Open pit and gravel excavating or processing shall not be permitted nearer than 50 feet to the boundary of an adjoining property line, unless written consent of the owner of such property is first obtained. Excavating or processing shall not be permitted closer than 30 feet to the right-of-way line of an existing or platted street or an existing public utility right-of-way.

SECTION 600 - CONDITIONAL USES

- B. Production from an open pit or the removal of sand and gravel shall not leave a slope exceeding one foot horizontal for one foot vertical.
- C. An open pit or sand and gravel operation shall be enclosed by a fence suitable to prevent unauthorized access.
- D. A rock crusher, washer, or sorter, shall not be located nearer than 500 feet to a residential or commercial zone. Surface mining equipment and necessary access roads shall be constructed maintained, and operated in such a manner as to eliminate, as far as is practicable, noise, vibration, or dust which is injurious or substantially annoying to persons living in the vicinity.

602.5 Junk or wrecking yard

In considering a conditional use application for a junk or wrecking yard, the Planning Commission shall require that it be enclosed by a sight-obscuring fence not less than six feet high.

602.6 High-impact commercial use

In considering a conditional use application for a high-impact commercial use the Planning Commission shall consider the following:

- A. Nearness to dwellings, churches, hospitals, or other uses which require a quiet environment.
- B. Building entrances, lighting, exterior signs, and other features which could generate or be conducive to noise or other disturbance for adjoining uses.
- C. Parking vehicles and pedestrian access and circulation could contribute to noise or attract habitual assembly or unruly persons.
- D. Hours of operation
- E. In addition to consideration of the above with respect to building and site design, the Planning Commission may attach conditions or standards of performance and impact, and methods for monitoring and evaluating these, to insure that such establishments do not become unduly or unnecessarily disruptive.

602.7 Single-family attached and town house dwellings

In considering a conditional use application for single-family attached or town house dwellings, the Planning Commission shall consider the following:

- A. Whether a structure of a similar type is within 200 feet.
- B. Relationship to neighboring uses.
- C. Street access.
- D. Terrain of the site. The project shall not cause traffic to move through the adjoining lower density areas.

SECTION 600 - CONDITIONAL USES

602.8 Multifamily condominium and apartment dwellings

In considering a conditional use application for multifamily condominium and apartment dwellings, the Planning Commission shall consider the following:

- A. Relationship to neighboring uses.
- B. Street access.
- C. Terrain of the site.

The project shall not cause traffic to move through adjoining lower density areas.

602.9 Manufactured homes requiring conditional use approval for placement on individual lots shall meet the following standards:

- A. The unit shall be multisectional (double-wide or wider) and enclose a floor area of not less than 1,000 square feet);
- B. The unit shall be placed on an excavated and backfilled foundation with the bottom no more than 12 inches above grade and enclosed at the perimeter by skirting of pressure treated wood, masonry, or concrete wall construction and complying with the minimum set-up standards of the adopted state Administrative Rules for Manufactured Dwellings, Chapter 918;
- C. The unit shall have a roof with a pitch of at least three (3) inches in twelve (12) inches;
- D. The unit shall have a garage or carport constructed with exterior siding and roofing which, in color, materials, and appearance, matches the manufactured home. The Planning Commission may, at the time of conditional use application, require an attached or detached garage in lieu of a carport where such is consistent with the predominant construction of immediately surrounding dwellings;
- E. The unit shall have exterior siding and roofing which, in color materials, and appearance, is similar to the exterior siding and roofing material commonly in use on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwellings as determined by the Planning Commission. Materials that shall not be allowed include bare metal siding or roofing;
- F. The unit shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce levels equivalent to the performance standards required of single-family dwellings constructed under the State building code as defined in ORS 455.010;
- G. The unit shall comply with the definition for manufactured home as identified in Section 103; and
- H. The unit shall comply with single-family parking and paving standards as described in Section 500.

602.10 Manufactured home subdivision

Manufactured home subdivisions are subject to the requirements of subsection 419.6, Manufactured home subdivisions.

SECTION 600 - CONDITIONAL USES

602.11 Senior, retirement and handicapped housing

In considering a conditional use application for senior, retirement, and handicapped housing the Planning Commission shall consider the following:

- A. Pedestrian access to transit.
- B. Pedestrian access to convenience facilities such as grocery store, pharmacy, laundromat, park and open space, and senior activity center.
- C. Pedestrian access to banking, churches, hospital, and restaurants.
- D. Quality of project as a living environment for residents.
- E. Minimizing impact on the surrounding area.

The Planning Commission may recommend to the City Council an increase in density to as much as that permitted by the next higher zone. The City Council shall make the final decision on density increase.

An applicant is required to submit materials and the Planning Commission shall attach conditions which will ensure that the special nature of the housing, and groups to be served, are clearly defined and maintained in perpetuity. Also a project is required to meet the definition for this type of housing defined in Section 103.

602.12 Secondary dwelling unit

A secondary dwelling unit may be allowed in conjunction with a detached single-family dwelling by conversion of existing space, or by means of an addition.

- A. Requirements for conversion of existing space or addition:
 - 1. The unit is in conformance with the site development requirements of the underlying zone.
 - 2. One off-street parking space is provided for the secondary unit in addition to the required parking for the primary dwelling.
 - 3. Garage or carport space may not be converted to a secondary dwelling unit, unless parking standards can be met after the completion of the unit.
 - 4. Public facilities must be adequate to serve both dwelling units, as determined by the Public Works Department.
 - 5. One unit shall be occupied by the property owner.
 - 6. The Planning Commission may impose conditions regarding height modification, landscaping, buffering and orientation of the secondary unit to protect privacy of the neighbors, and any other conditions deemed necessary.
 - 7. Conditions of approval shall be part of the deed restrictions.

SECTION 600 - CONDITIONAL USES

8. No more than one additional unit is allowed.
- B. Requirements for conversion of existing space:
1. Cannot exceed 50% of the existing structure.
 2. Each unit shall be a minimum of 250 square feet.
 3. No fire escape or exterior stair for access to an upper level may be located on the front of a building.
- C. Requirements for addition:
1. Does not exceed one bedroom
 2. The maximum area is 800 square feet.

SECTION 700
VARIANCES, EXCEPTIONS

701 VARIANCES, EXCEPTIONS, SPECIAL VARIANCES, AND PLAN REVIEW

The Planning Commission or Community Development Director may authorize variances from the standards and requirements of this Ordinance within the limitations prescribed in Section 702. In granting a variance, the Planning Commission or Community Development Director may, in addition to the time limitations of Section 1013, attach conditions which it finds necessary to lessen the impact of the variance on nearby property, protect the general welfare of the City, and achieve the purposes of this Ordinance.

702 CIRCUMSTANCES FOR GRANTING VARIANCES

A variance may be granted only when the Planning Commission or Community Development Director finds that practical difficulty, or unnecessary hardship, which is inconsistent with the spirit and intent of the Comprehensive Plan and of this Ordinance for the applicable zone, would be created by a strict and literal interpretation of its provisions with respect to the property in question.

702.1 Criteria for consideration

The Planning Commission shall consider and make findings with respect to each of the following:

- A. Whether the property in question has unique, exceptional or extraordinary conditions which do not apply generally to other properties in the vicinity. Such conditions shall relate to the land or physical characteristics of the development as distinct from uses allowed in the zone, or from the personal conditions or economic circumstances of the applicant.
- B. Whether the request variance is the minimum necessary to permit the applicant to enjoy the use of his property in a manner substantially the same as others in the same zone, so that the applicant will not be granted a special privilege.
- C. Whether there are feasible alternatives which would obviate the need for the variance, or overcome the difficulty with less adverse effects upon other properties.
- D. Whether the variance would have benefits to the applicant which would outweigh its adverse effects upon other properties or the public welfare.

703 ADMINISTRATIVE VARIANCE

A variance of up to twenty-five percent of the standard required may be reviewed and approved or denied by the Community Development Director. Procedures per subsection 1011.2, Type II Administrative review, shall be followed. Findings as specified in Section 702 shall be made.

SECTION 700 - VARIANCES, EXCEPTIONS

704 VARIANCE PROCEDURE

Variance requests in excess of 25% from the standard required shall require forms and procedures outlined in Sections 1003-1010 and subsection 1011.3, Minor Quasi-Judicial review. Findings as specified in Section 702 must be made.

705 AUTHORIZATION TO GRANT OR DENY EXCEPTIONS

705.1 Circumstances

The Planning Commission may authorize exception to uses established by this Ordinance upon a determination that the following circumstances exist:

- A. Exceptional circumstances apply to the property which do not apply generally to other properties in the same zone, resulting from circumstances over which the applicant has no control.
- B. The proposed use would not be substantially detrimental to the interests of neighboring, but not necessarily adjacent, owners.
- C. That substantial justice to all owners would be afforded thereby within the purposes of this Ordinance.
- D. There exists no other practical use of the property under the provisions of this Ordinance.
- E. Economic hardship shall not be a primary basis for allowance of an exception nor shall circumstances of which applicant had prior knowledge be considered upon application.

706 EXCEPTION PROCEDURES

The procedures in applying for and acting upon an exception shall be the same as those of Section 704.

707 HEIGHT VARIANCE

A variance to allow construction above the regular height restrictions of the R-2, R-1-B, R-1, R-O-C, C-L, C-C, C-G, BI, and M Zones may be permitted by the Planning Commission following a public hearing per subsection 1011.3, Minor Quasi-Judicial review.

707.1 Considerations

In considering a request for a height variance, the Planning Commission shall consider:

- A. Effect on adjoining property including shadows, natural light and views;
- B. Relationship of site design to surrounding area;
- C. Open space provided beyond that required; and
- D. Design of the proposed structure.

In granting a special variance, the Planning Commission may attach conditions provided in Section 701.

SECTION 700 - VARIANCES, EXCEPTIONS

708 DENSITY VARIANCE

A variance to allow an increase in the density of residential projects in the R-O-C and R-1-B Zones may be permitted by the Planning Commission following a public hearing per subsection 1011.3, Minor Quasi-Judicial review. In granting a density variance the Planning Commission shall find that the project has exceptional design quality, project amenities, or other qualities and characteristics which justify a greater density than is usually permitted within the zone.

Such increased density shall not permit more than 15 percent additional dwelling units than allowed under standards of the zone. In granting a special variance, the Planning Commission may attach conditions as provided in Section 701.

SECTION 800
NONCONFORMING USES

801 CONTINUATION OF A NONCONFORMING STRUCTURE

Subject to the provisions of this section, a nonconforming structure may be continued and maintained in a reasonable repair, but shall not be altered or extended unless such alteration or extension is approved by the Community Development Director per subsection 1011.2, Type II Administrative review. A decision will be rendered based upon a determination that the proposed modifications would result in no more of a detriment to surrounding properties than the existing structure.

802 CONTINUATION OF A NONCONFORMING USE

A nonconforming use may be continued, but shall not be altered unless such alteration is approved by the Planning Commission after a public hearing in accordance with subsection 1011.3, Minor Quasi-Judicial review, upon a determination that the proposed modifications would result in no more of a detriment to surrounding properties than the existing use.

803 DISCONTINUANCE OF NONCONFORMING USE

803.1 Nonconforming use involving a structure

If a nonconforming use involving a structure is discontinued for a period of six months, further use of the property shall conform to this Ordinance.

803.2 Nonconforming use not involving a structure

If a nonconforming use not involving a structure is discontinued for a period of six months, further use of the property shall conform to this Ordinance.

804 IMPROVEMENT OF CERTAIN NONCONFORMING USES

A use which is nonconforming with respect to provision for screening shall provide screening within a period of five years from the effective date of Ordinance #1438 (November 4, 1979).

805 CHANGE OF NONCONFORMING STRUCTURE

Except for signs, a structure conforming as to use but nonconforming as to height, yard requirements, or lot coverage may be altered or extended provided the alteration or extension does not exceed the height, yard requirements or lot coverage requirements of this Ordinance.

806 CHANGE OF NONCONFORMING USE

806.1 Nonconforming use not involving a structure

If a nonconforming use not involving a structure is replaced by another use, the new use shall conform to this Ordinance.

SECTION 800 - NONCONFORMING USES

806.2 Nonconforming use involving a structure

If a nonconforming use involving a structure is replaced by another use, the new use shall conform to this Ordinance unless the Planning Commission, after a public hearing as provided in subsection 1011.3, Minor Quasi-Judicial review, determines that such structure is suitable only for another nonconforming use no more detrimental to surrounding properties than the one to be replaced.

807 DESTRUCTION OF NONCONFORMING STRUCTURE OR USE

If a nonconforming structure or a structure containing a nonconforming use is destroyed by any cause to an extent exceeding 50 percent of its fair market value as indicated by the records of the County Assessor or is not returned to use within six months from the date of destruction, a future structure or use on the site shall conform to this Ordinance.

808 COMPLETION OF STRUCTURE

Nothing contained in this Ordinance shall require any change in the plans, construction, alteration, or designated use of a structure for which a building permit has been issued and construction work has commenced prior to effective date of Ordinance #1438 (November 5, 1979), provided the building, if nonconforming or intended for a nonconforming use, is completed and in use within two years from the time the building permit is issued.

SECTION 900

AMENDMENTS

901 INITIATION OF AMENDMENTS

An amendment to the Milwaukie Zoning Map or to the text of this ordinance may be initiated by the City Council, by the Planning Commission, or by the application of a property owner.

902 AMENDMENT PROCEDURE

902.1 The following application and review procedures shall be in effect for all proposed amendments:

- A. The Planning Commission shall conduct a public hearing on the proposed amendment at its earliest practicable meeting after the application has been determined to be complete by the Director. Zoning Map amendments shall follow the procedures outlined in subsection 1011.4, Major Quasi-Judicial review. Zoning text amendments shall follow the procedures outlined in subsection 1011.5, Legislative actions.
- B. Denial of the proposed amendment shall be final unless it is appealed to the City Council as provided under Section 1002 of this Ordinance.
- C. Upon approval of the proposed amendment by the Planning Commission, the Director shall provide a report of the Commission's recommendation to the City Council within 40 days after the hearing.

903 REQUIREMENTS FOR ZONING MAP AMENDMENTS

903.1 Proposals for Zoning Map amendments must provide evidence that all requirements of this Ordinance relative to the proposed use or uses are satisfied, in addition to addressing the following:

- A. Applicable requirements of Section 1003.
- B. Reasons for requesting the Zoning Map amendment.
- C. Description of existing site conditions, including but not limited to, topography, public facilities and service, natural hazards, natural areas or open space, historic sites, transportation, current uses of the subject site, and current zoning of the subject site.
- D. Description of the intended use or uses.
- E. Identification on a detailed site plan of public facilities both existing and proposed, existing and proposed structures and site development details including display of setback and other zoning standards compliance information, and an indication of mitigation or other measures proposed for purposes of health, safety, or welfare within the community.
- F. The approval criteria of Section 905.

SECTION 900 - AMENDMENTS

904 REQUIREMENTS FOR ZONING TEXT AMENDMENTS

- 904.1 Proposals for zoning text amendments must provide written evidence that the following requirements are satisfied:
- A. Applicable requirements of Section 1003.
 - B. Reasons for requesting the proposed text amendments
 - C. Explanation of how the proposed text amendment is consistent with other provisions of this Ordinance.
 - D. The approval criteria of Section 905.

905 APPROVAL CRITERIA FOR ALL AMENDMENTS

- 905.1 For all proposals, the applicant shall have the burden of proof regarding the following criteria:
- A. The proposed amendment must conform to applicable Comprehensive Plan goals, policies, and objectives and be consistent with the provisions of City ordinances.
 - B. The anticipated development must meet the intent of the proposed zone, taking into consideration the following factors: site location and character of the area, the predominant land use pattern and density of the area, the potential for mitigation measures adequately addressing development effects, any expected changes in the development pattern for the area, the need for uses allowed by the proposed zone amendment, and the lack of suitable alternative sites already appropriately zoned for the intended use or uses. The Planning Commission and City Council shall use its discretion to weight these factors in determining the intent of the proposed zone.
 - C. The proposed amendment will meet or can be determined to reasonably meet applicable, regional, State, or federal regulations.
 - D. The proposed amendment demonstrates that existing or planned public facilities and services can accommodate anticipated development of the subject site without significantly restricting potential development within the affected service area.

906 CONDITIONS OF APPROVAL

Conditions of approval may be applied to Zoning Map amendments for purposes of fulfilling identified need for public facilities and/or meeting applicable regional, State, or federal regulations. Conditions of approval may include actual construction of facilities or a performance contract, bond, or escrow account to assure installation of public facilities to specified standards.

907 MODIFICATION OF OFFICIAL ZONING MAP

For Zoning Map amendments not involving conditions of approval, Community Development staff shall modify the Official Zoning Map of the City of Milwaukie at such time as the ordinance of adoption goes into effect. For Zoning Map amendments involving conditions of approval, Zoning Map modification shall not occur until all conditions of approval are satisfied by verification by appropriate City staff.

SECTION 900 - AMENDMENTS

908 REVOCATION

If conditions of approval are not met within two (2) years of ordinance adoption, the Planning Commission shall hold a public hearing to consider the revocation of the approved zoning. This review shall follow the procedures of subsection 1011.3, Minor Quasi-Judicial review. The Planning Commission may also, upon determination that the applicant is making satisfactory progress towards completing conditions of approval, grant one (1) time extension not to exceed a maximum of two (2) years.

SECTION 1000

ADMINISTRATIVE PROVISIONS

1001 ENFORCEMENT

The Community Development Director shall have the power and duty to enforce the provisions of this Ordinance. An appeal from a ruling by the Community Development Director regarding a requirement of the Ordinance may be made only to the Planning Commission.

1002 TIME LIMIT AND APPEAL FROM RULING OF PLANNING COMMISSION

Final action or ruling on any request pursuant to this Ordinance, including resolution of all appeals under ORS 227.180, shall be given within 120 calendar days after an application is received and is deemed complete. This does not apply to an amendment to an acknowledged comprehensive plan or adoption of a new land use regulation. A waiver of the 120-day processing time limit may be granted upon submission of a written request for extension by all applicants. Any action or ruling of the Planning Commission pursuant to this Ordinance may be appealed to the City Council within 15 calendar days after the Planning Commission has rendered its decision. Written notice of the appeal shall be filed with the City Recorder. If the appeal is not filed within the 15-day period, the decision of the Planning Commission shall be final. If the appeal is filed, a report and recommendation on the Planning Commission's decision shall be forwarded to the City Council; and the Council shall hold a public hearing on the appeal within 40 calendar days of receiving a request for an appeal. An appeal of a Planning Commission decision shall specify, in detail, the issues or findings in contention so as to afford the City Council and interested parties an adequate opportunity to respond to and resolve each issue. Notice for the appeal hearing shall: be provided to the applicant and other persons as otherwise provided by law, include a description of applicable criteria, include a street address or other geographical reference, state the time, date, and location of the hearing, state that failure to raise an issue in person or by letter precludes appeal and that failure to specify to which criterion the comment is directed precludes appeal based on that criterion, and be mailed at least 10 calendar days before the hearing. At the commencement of the City Council appeal hearing, a statement shall be made to those in attendance that: describes the applicable substantive criteria, testimony and evidence must be directed at the issues raised in the appeal, and failure to address a criterion precludes an appeal based on that criterion.

1003 FORM OF PETITIONS, APPLICATIONS, AND APPEALS

All petitions, applications and appeals provided for in this Ordinance shall be made on forms prescribed by the City. Applications shall be accompanied by plans and specifications, drawn to scale, showing the actual shape and dimensions of the lot to be built upon, the sizes and locations on the lot of the buildings and other structures, existing and proposed, the existing and intended use of each building, structure or part thereof, the number of families, if any, to be accommodated thereon, and such other information as is needed to determine conformance with this Ordinance.

1004 REVIEW OF APPLICATION

The Community Development Director shall review the application for completeness. If an application is incomplete, the Community Development Director shall notify the applicant of exactly what information is missing, within 30 calendar days of receipt of the application, in order to allow the

SECTION 1000 - ADMINISTRATIVE PROVISIONS

applicant the ability to submit the missing information. The application shall be deemed complete for purposes of commencing the 120-day processing time upon receipt of the missing information. If the applicant refuses to submit the missing information, the application shall also be deemed complete for purposes of commencing the 120-day processing time on the 31st day after the application was initially received. Applications requiring a public hearing shall not be scheduled until the application is deemed complete.

1005 CONCURRENT REVIEWS

Applications for more than one land use review on the same property, and all integral parts of the same development proposal, may be processed in a single hearing at the request of the applicant. Separate findings shall be required for each decision and one decision may be rendered contingent upon another decision. Concurrent reviews of applications are subject to the 120-day time limit.

1006 FILING FEES

A fee as established by resolution of the City Council, to aid in defraying the City's cost of processing applications, shall be paid to the City of Milwaukee upon the filing of an application. Such fees shall not be refundable. Fees for preparation of written transcripts shall not exceed the actual cost of the transcript up to \$500.00, plus one half of the actual cost over \$500.00.

1007 APPLICABLE STANDARDS AND CRITERIA

If the application was complete when first submitted, or the applicant submits the requested additional information within 180 calendar days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.

1008 EX PARTE CONTACT

Prior to rendering a decision, no member of a review body shall communicate, directly or indirectly, with any person interested in the outcome or any representative in connection with any issue involved in an application except upon notice and opportunity for all parties to participate. Should such communications occur, the member of the review body shall:

- Enter into the record the substance of any such written or oral communication; and
- Publicly announce the content of the communication and provide an opportunity to rebut the substance of the contact.

1009 DECISIONS

A decision may be made to grant, grant with conditions, modify, or deny an application as provided by the applicable approval criteria.

SECTION 1000 - ADMINISTRATIVE PROVISIONS

1010 MANDAMUS AUTHORIZED

If the City of Milwaukie does not take action on an application for a permit or zone change within the 120-day time period, an applicant may apply in the Circuit Court of Clackamas County for a writ of mandamus to compel the City to either make a decision or show that the approval would violate a substantive provision of the City's Comprehensive Plan or land use regulations.

1011 PROCEDURES

1011.1 Type I Administrative review

A Type I procedure is an administrative process and the decision, based on the relevant standards, is made by the Community Development Director without a public hearing. Such decision is final for the purposes of review upon signing by the Director if all standards are met. Section 1001 provides for appeal of decision by the Community Development Director.

- A. Notification. No notification is required.
- B. Decision. A decision shall grant or deny the application. The decision will be made within 10 days of receipt of an application in the Community Development Department. An applicant will be notified by phone or by mail within 5 days of the decision. Any decision may be appealed to the Planning Commission per Section 1001 of the Zoning Ordinance.

1011.2 Type II Administrative review

A Type II procedure provides for an administrative decision with the option of a public hearing.

- A. Public notification. Within 15 days of the receipt of an application, the Director will mail a Notice of Tentative Decision. This notice shall contain a description of the request and shall describe the tentative decision made by the Director, including findings and conclusions based on the applicable criteria. It will specify the deadline for submission to request a public hearing and provide for potentially affected persons to communicate concerns to the Director, who will take them into account in reaching a final decision on the application. The notice shall be mailed to the owner, applicant and all property owners within 150 feet of the outer boundaries of the site. The names and addresses used for this purpose shall be those shown on the current records of the County Assessor. At least 10 days shall be given from the date of the notice to state objections or request a public hearing. The notice shall also contain a listing of the applicable criteria upon which the decision was based.
- B. Administrative action. If a public hearing is requested, the application shall follow the procedures of subsection 1011.3, Minor Quasi-Judicial review. The Director or the applicant may immediately request a public hearing if it appears that the application has potential for controversy or there is difficulty in applying the applicable criteria. If no request for a public hearing is received by the Community Development Director, the Director may grant the application, either with or without conditions, without a hearing, if applicable criteria are met. The applicant, property owner and all property owners within the

SECTION 1000 - ADMINISTRATIVE PROVISIONS

notification area shall be re-notified if a final decision is changed. If either the applicant or persons with concerns are not satisfied with the Director's decision, they may appeal per the provisions of Section 1001 and the matter will be subject to the provisions of subsection 1011.3, Minor Quasi-Judicial review.

- C. Public hearing. If any interested person or notified property owner responds and requests an opportunity to testify at a public hearing, a hearing shall be scheduled according to the "Public Hearing Schedule" outlined by the Community Development Department and shall follow procedures outlined in subsection 1001.3, Minor Quasi-Judicial review.

1011.3 Minor Quasi-Judicial review

A Minor Quasi-Judicial procedure requires a public hearing in front of the Planning Commission.

- A. Preapplication conference. A preapplication conference may or may not be required. The applicant or the Director may request a pre-application conference.
- B. Public notification. Notice shall be mailed to the property owner and applicant, if different, and to all property owners within 250 feet of the outer boundaries of the site, not less than 20 days prior to the date of the hearing. In addition, a sign indicating the date of the public hearing, shall be posted on the subject property, that is legible from the closest street, not less than 10 days prior to the date of the hearing.
- C. Notice for Community Service Overlay uses and community scale shopping center use. Notice for development of community service uses shall be mailed to the applicant, property owner and all property owners within 250 feet of the outer boundaries of the site. The names and addresses for this purpose shall be those shown on the current records of the County Assessor. In addition, a sign indicating the date of the public hearing, shall be posted on the subject property, that is legible from the closest street, not less than 10 days prior to the date of the hearing. Notice of a hearing shall be published once each week for two consecutive weeks in a newspaper of general circulation in the City of Milwaukie of which the second publication shall be not less than five days prior to the date of the hearing.
- D. Notice for development within the Willamette Greenway Zone. Notice of a hearing on a conditional use in the WG Zone shall follow the procedures subsection 1011.3.C, above. Also, interested groups and the Oregon Department of Transportation (ODOT) shall be notified of a public hearing. ODOT shall be notified by "certified mail, return receipt requested".
- E. Decision. The Planning Commission shall conduct the public hearing and render a decision on the matter including findings, conclusions, and conditions, if necessary, based on compliance with the applicable Comprehensive Plan goals and policies and other applicable implementing ordinances. Community Development staff shall notify the applicant and property owner, if different, in writing, within five days and any person who testified either in person or in writing, at the hearing.

SECTION 1000 - ADMINISTRATIVE PROVISIONS

1011.4 Major Quasi-Judicial review

A Major Quasi-Judicial action provides for a Zoning Map amendment or a Comprehensive Plan Map amendment.

- A. Preapplication conference. A preapplication conference shall be required. The applicant or the Director may request a preapplication conference.
- B. Public notification. Public notice shall be mailed to the applicant of the subject property and owner, if different and to all property owners and residents within 400 feet of the site at least 10 days prior to the date of the scheduled hearing. Notice of a hearing shall be published once each week for two consecutive weeks in a newspaper of general circulation in the City of Milwaukie of which the second publication shall be not less than five days prior to the date of the hearing. In addition, a sign indicating the date of the public hearing, shall be posted on the subject property, that is legible from the closest street, not less than 10 days prior to the hearing.
- C. Notice for deletion of Historic Preservation Overlay Zone. Notice for deletion of an Historic Preservation Overlay Zone shall follow the procedures of subsection 1011.4.B above. In addition, notice of a public hearing shall also be mailed to the Oregon Department of Land Conservation and Development (DLCD).
- D. Decision. The Planning Commission shall conduct the public hearing and may deny the application or recommend approval to the City Council based on compliance with the applicable Comprehensive Plan goals and policies and compliance with subsection 903.1 of the Zoning Ordinance. A denial of the proposed amendment shall be final unless it is appealed to the City Council as provided under Section 1002. Upon a recommendation of approval of the proposed amendment by the Planning Commission, within 40 calendar days after the hearing, a report recommending approval shall be provided to the City Council. This recommendation shall include findings of fact and conclusions. The City Council shall conduct a public hearing. Public notification of this hearing shall be given as per subsection 1011.4.B above. Community Development staff shall notify the applicant and property owner, if different, and any individual who testified at the hearing, in writing, within five days after the final decision.

1011.5 Legislative actions

Legislative Actions provide for the establishment and modification of legislative land use policies and plans. This includes, but is not confined to a Zoning Ordinance or Comprehensive Plan text amendment, adoption of a neighborhood plan or area design guidelines, or establishment of a plan district.

- A. Public notification. Notice of a hearing shall be published once each week for two consecutive weeks in a newspaper of general circulation in the City of Milwaukie of which the second publication shall not be less than five days prior to the date of the hearing. Preliminary neighborhood meetings or other public meetings may be held, as appropriate, prior to the public hearing.

SECTION 1000 - ADMINISTRATIVE PROVISIONS

- B. Decision. The Planning Commission shall conduct a public hearing and shall make a decision based on compliance with the applicable goals and policies of the Comprehensive Plan. The Planning Commission shall prepare a recommendation to the City Council. If the Commission denies the proposal, and it was the initiator of the proposal, the matter shall be terminated. If the proposal was initiated by the City Council and the Commission denies it, the proposal shall be forwarded to City Council with a report and recommendation of denial. If the proposal is approved by the Commission, a report and recommendation, including findings and conclusions, shall be forwarded to Council. The City Council shall conduct a public hearing. Public notification of this hearing shall be given as per subsection 1011.5.A above.

1012 RECESS OF HEARING

The Planning Commission or City Council may recess a hearing in order to obtain additional information or to serve further notice upon other property owners or persons it decides may be interested in the proposal being considered. Upon recessing, the time and date when the hearing is to resume shall be announced.

1013 TIME LIMIT ON A PERMIT FOR A CONDITIONAL USE OR VARIANCE

Authorization of actions covered by Sections 600, 700, and 800 shall be void after six months unless substantial construction pursuant thereto has taken place. However, the Planning Commission may at its discretion extend authorization for an additional one year upon request.

SECTION 1100
MISCELLANEOUS PROVISIONS

1101 INTERPRETATION

Where the conditions imposed by any provisions of this Ordinance are less restrictive than comparable conditions imposed by any other provisions of this Ordinance or of any other ordinance, resolution, or regulation, the provisions which are most restrictive shall govern.

1102 SEVERABILITY

The provisions of this Ordinance are severable. If any section, sentence, clause or phrase of this Ordinance is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of this Ordinance.

1103 REPEAL

Ordinance No. 1438 and all amendments thereto are hereby repealed, with the provision that violations of that ordinance and all amendments thereto shall remain violations to the extent that the matters in violation do not conform to the provisions of this Ordinance.

SECTION 1200

REMEDIES

1201 PENALTY

A person violating a provision of this Ordinance shall, upon conviction, be punished by imprisonment for not more than thirty (30) days or by a fine of not more than \$200.00 or both. A violation of this Ordinance shall be considered a separate offense for each day the violation continues.

1202 ALTERNATIVE REMEDY

In case a building or other structure is, or is proposed to be, located, constructed, maintained, repaired, altered, or used in violation of this Ordinance, the building or land in violation shall constitute a nuisance, and the City may, as an alternative to other remedies that are legally available for enforcing this Ordinance, institute injunction, mandamus, abatement, or other appropriate proceedings to prevent, enjoin temporarily or permanently, abate, or remove the unlawful location, construction, maintenance, repair, alteration or use.

SECTION 1300

SOLAR ACCESS PROTECTION

1301 PURPOSE

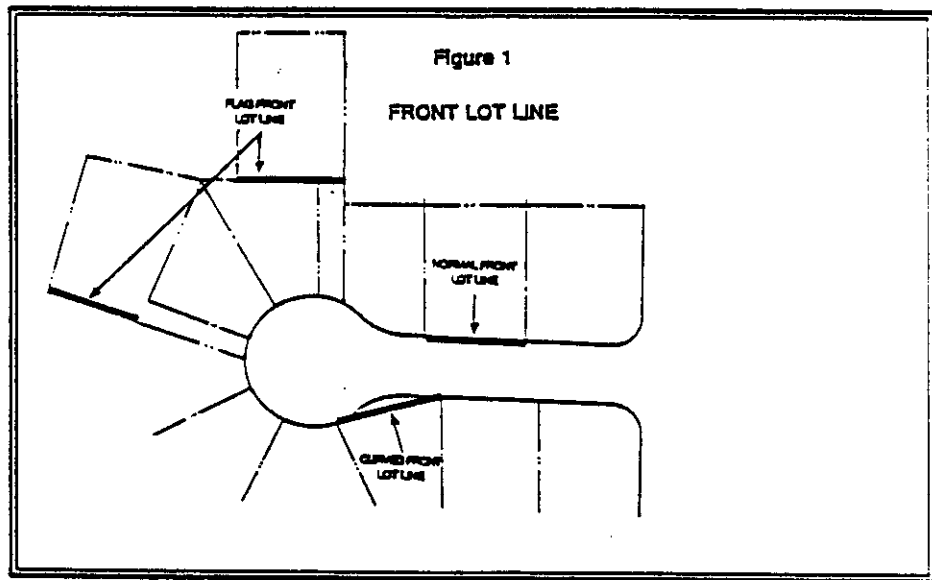
1301.1 The purpose of this Section is:

- A. To provide solar access protection to new development in subdivisions, new and remodeled single-family homes, structures within single-family zoning districts, and homes which made beneficial use of solar energy.
- B. To promote energy conservation and the effective use of the sun as a renewable resource.
- C. To implement provisions of the Milwaukie Comprehensive Plan encouraging use of solar energy.
- D. To provide a means of encouraging investment in solar design and solar equipment.

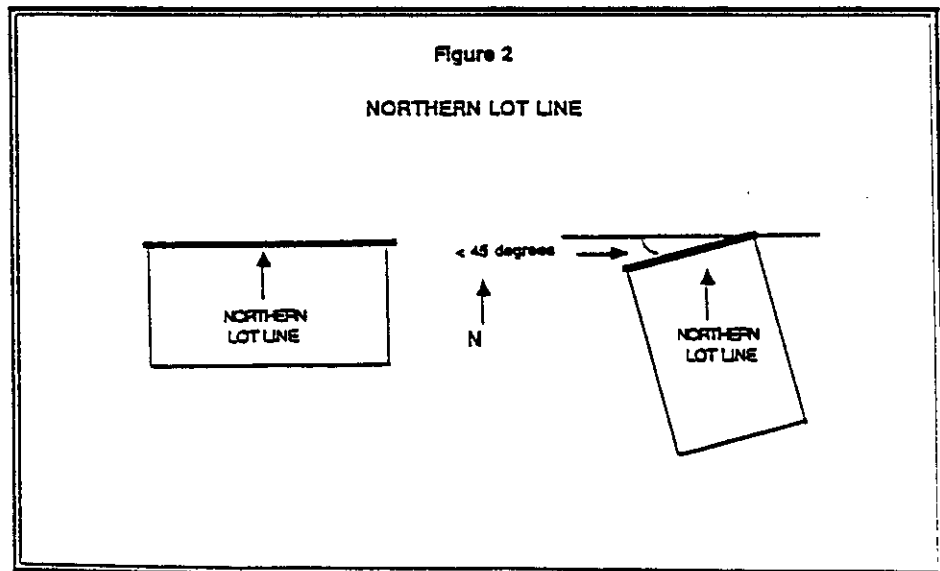
1302 DEFINITIONS

1302.1 For the purposes of this Section, the following definitions shall apply:

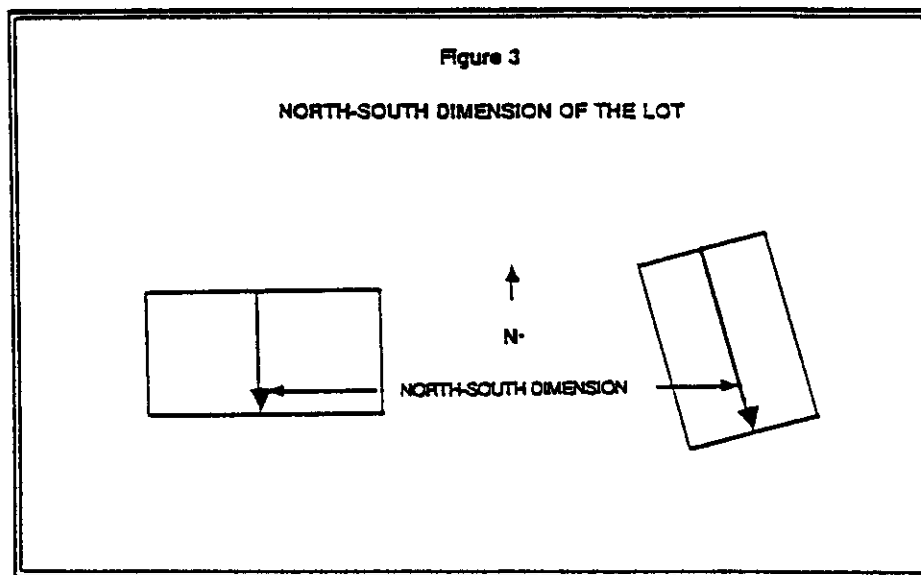
- A. Azimuth: A horizontal direction expressed as a distance in angles between the direction of a fixed point and the direction of an object being measures.
- B. Crown cover: The area within the drip line or perimeter of the foliage of a tree.
- C. Development: Any partition, subdivision, or planned unit development that is created under the City's land division or zoning regulations.
- D. Director: The Community Development Director of the City of Milwaukie or his or her designee.
- E. Exempt tree or vegetation: The full height and breadth of vegetation that the Director has identified as "solar friendly," any vegetation listed on a plat map, a document recorded with the plat, or a solar access permit as exempt.
- F. Front lot line: For purposes of the solar access regulations, a lot line abutting a street. For corner lots, the front lot line is that with the narrowest frontage. When the lot line abutting a street is curved, the front lot line is the chord or straight line connecting the ends of the curve. For a flag lot, the front lot line is the shortest lot line adjoining the pole portion of the lot, excluding the unbuildable portion of the pole (see Figure 1).



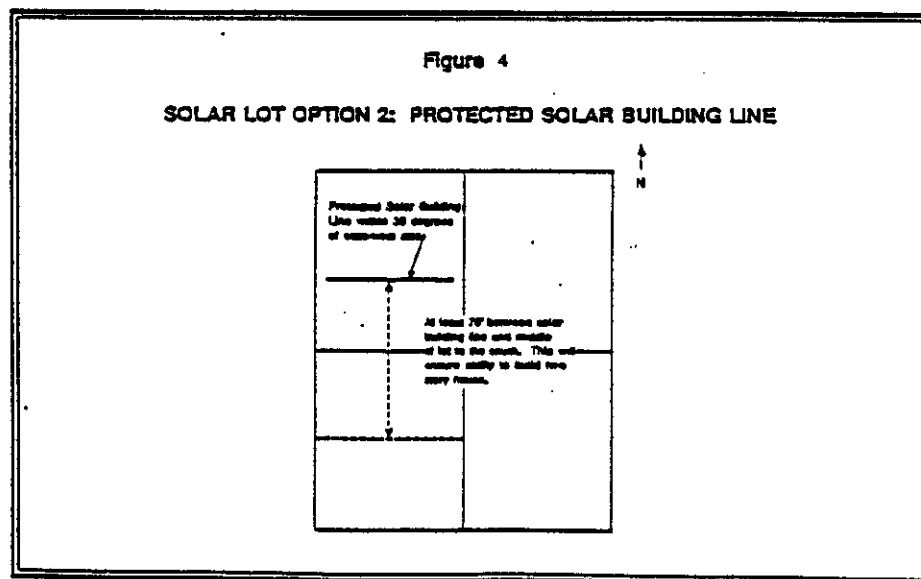
- G. Nonexempt tree or vegetation: Vegetation that is not exempt.
- H. Northern lot line: The lot line that is the smallest angle from a line drawn east-west and intersecting the northernmost point of the lot, excluding the pole portion of a flag lot. If the north line adjoins an undevelopable other than a required yard area, the northern lot line shall be at the north edge of such undevelopable area. If two lot lines have an identical angel relative to a line drawn east-west, or if the northern lot line is less than 35 feet, then the northern lot line shall be a line 35 feet in length within the lot parallel with and at a maximum distance from the front lot line (see Figure 2).



- I. North-south dimension: The length of a line beginning at the mid-point of the northern lot line and extending in a southerly direction perpendicular to the northern lot line until it reaches a property boundary (see Figure 3).



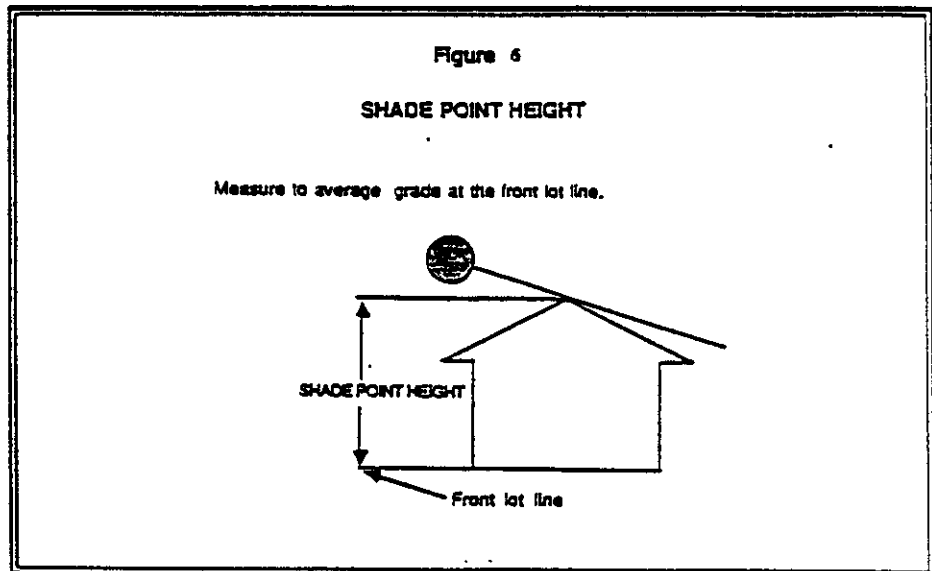
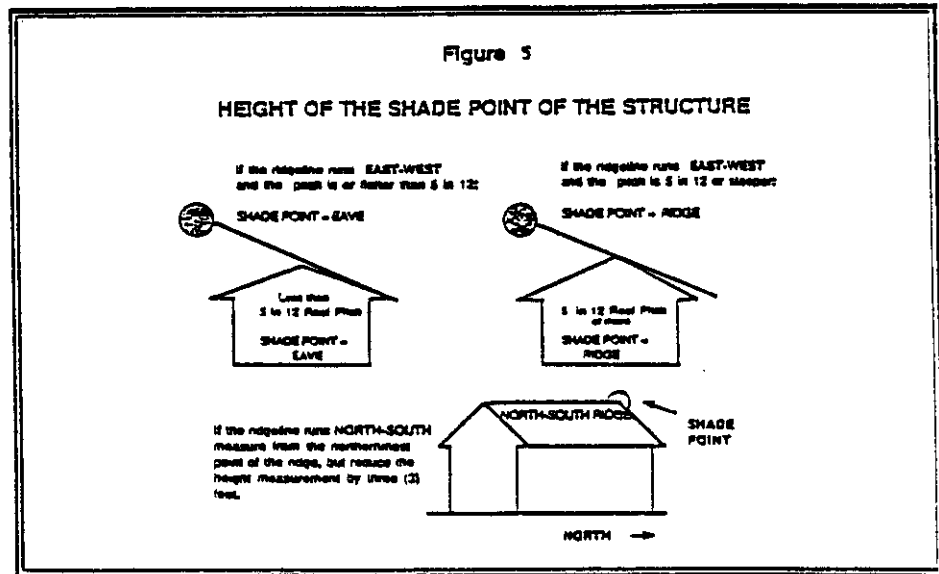
- J. Protected solar building line: A line on a plat or map recorded with the plat that identifies the location on a lot where a point two feet above may not be shaded by structures or nonexempt trees (see Figure 4).



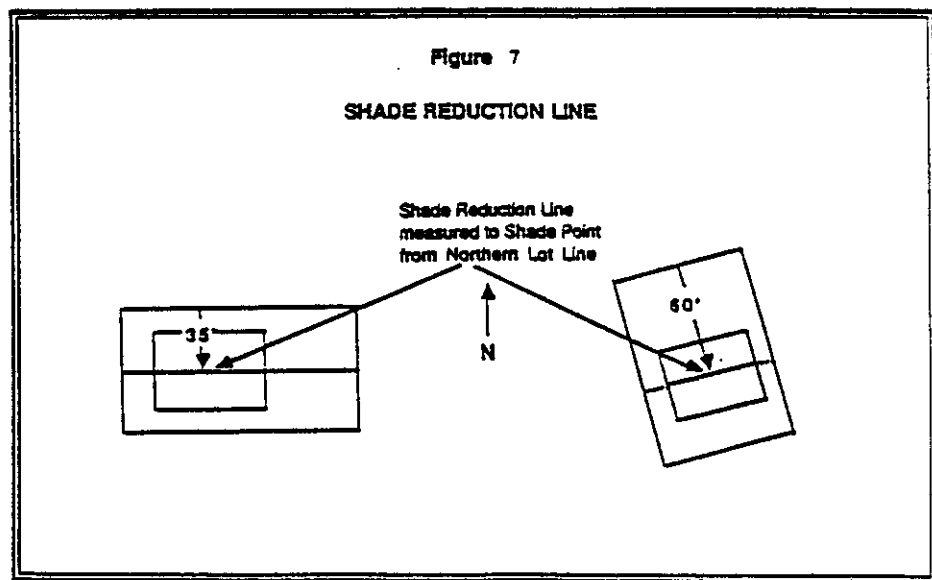
- K. Shade: A shadow cast by the shade point of a structure or vegetation when the sun is at an altitude of 21.3 degrees and an azimuth ranging from 22.7 degrees east and west of true south.
- L. Shade point: The part of a structure or nonexempt tree that casts the longest shadow onto the adjacent northern lot(s) when the sun is at an altitude of 21.3 degrees and an azimuth ranging from 22.7 degrees east and west of true south; except a shadow caused by a narrow object such as a mast or whip antenna, a dish antenna with a diameter of 3 feet or less, a chimney, utility pole, or wire. The height of the shade point shall be measured from the shade point to either the average elevation at the front lot line or the

SECTION 1300 - SOLAR ACCESS PROTECTION

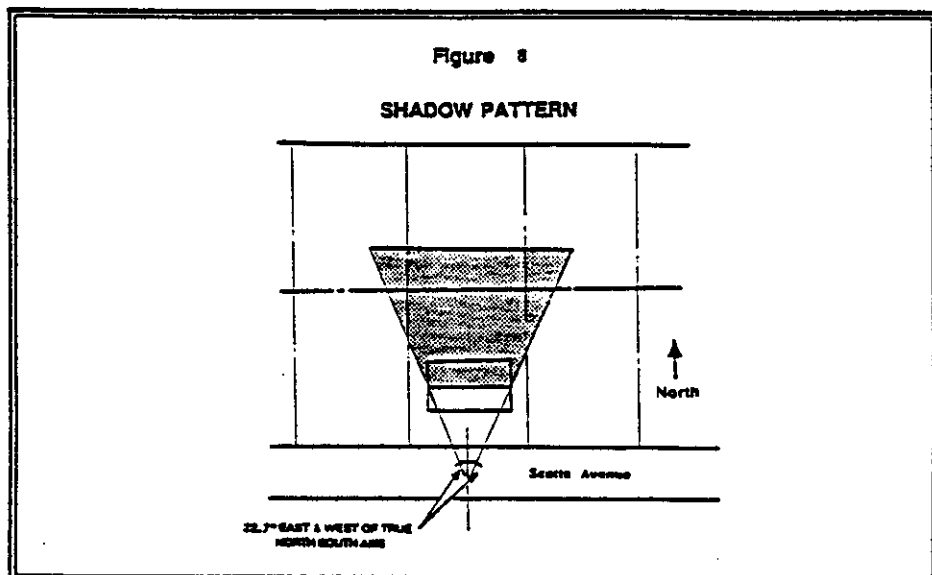
elevation at the midpoint of the front lot line. If the shade point is located at the north end of the ridgeline of a structure oriented within 45 degrees of a true north-south line, the shade point height computed according to the preceding sentence may be reduced by 3 feet. If a structure has a roof oriented within 45 degrees of a true east-west line with a pitch that is flatter than 5 feet (vertical) in 12 feet (horizontal) the shade point will be the eave of the roof. If such a roof has a pitch that is 5 feet in 12 feet or steeper, the shade point will be the peak of the roof (see Figures 5 and 6).



- M. Shade reduction line: A line drawn parallel to the northern lot line that intersects the shade point (see Figure 7).

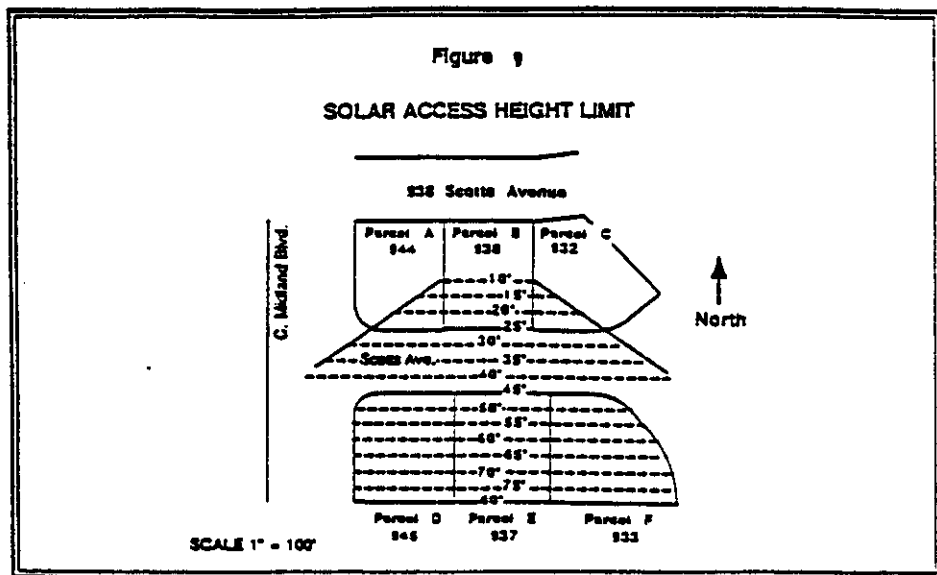


- N. Shadow pattern: A graphic representation of an area that would be shaded by the shade point of a structure or vegetation when the sun is at an altitude of 21.3 degrees and an azimuth ranging between 22.7 degrees east and west of true south (see Figure 8).

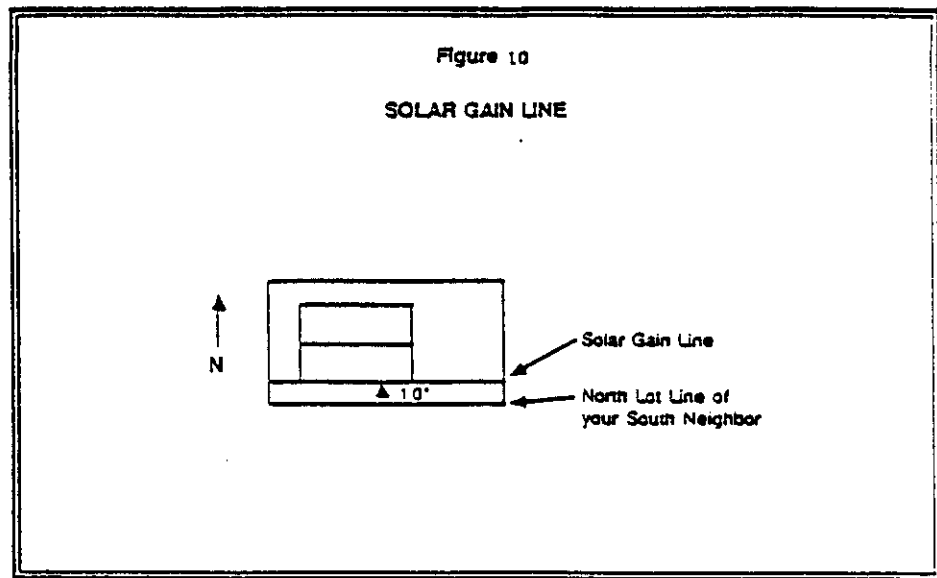


- O. Solar access height limit: A series of contour lines establishing the maximum permitted height for nonexempt vegetation on lots affected by a solar access permit (see Figure 9).

SECTION 1300 - SOLAR ACCESS PROTECTION



- P. Solar access permit: A document issued by the City that describes the maximum height that nonexempt vegetation is allowed to grow on lots to which a solar access permit applies.
- Q. Solar feature: A device or combination of devices or elements that does or will use direct sunlight as a source of energy for such purposes as heating or cooling of a structure, heating or pumping of water, and generating electricity. Examples of a solar feature include a window that contains at least 20 square feet of glazing oriented within 45 degrees east and west of true south, a solar greenhouse, or a solar hot water heater. A solar feature may be used for purposes in addition to collecting solar energy, including but not limited to serving as a structural member or part of a roof, wall, or window. A south-facing wall without windows and without other features that use solar energy is not a solar feature for purposes of this Section.
- R. Solar friendly tree: A tree which the Director has determined does not cause significant winter shade due to foliar period and branch structure. The Director shall maintain a list of generally recognized solar friendly trees.
- S. Solar gain line: A line parallel to the northern property line(s) of the lot(s) south of and adjoining a given lot, including lots separated only by a street, that intersects the solar feature on that lot (see Figure 10).



- T. South or south-facing: True south, or 20 degrees east of magnetic south.
- U. Sun chart: One or more photographs that plot the position of the sun between 10:30 a.m. and 1:30 p.m. on January 21, prepared pursuant to guidelines issued by the Director. The sun chart shall show the southern skyline through a transparent grid on which is imposed solar altitude for 45 degree and 30 minute northern latitude in 10 degree increments and solar azimuth from true south in 15 degree increments.
- V. Undevelopable area: An area that cannot be used practicably for a habitable structure, because of natural conditions, such as slopes exceeding 20% in a direction greater than 45 degrees east and west of true south, severe topographic relief, water bodies, or conditions that isolate one portion of a property from another portion so that access is not practicable to the unbuildable portion; or manmade conditions, such as existing development which isolates a portion of the site and prevents its further development; setbacks or development restrictions that prohibit development of a given area of a lot by law or private agreement; or existence or absence of easements or access rights that prevent development of a given area.

1303 SOLAR ACCESS FOR NEW DEVELOPMENT

1303.1 Purpose

The purposes of solar access provisions for new development are to ensure that land is divided so that structures can be oriented to maximize solar access and to minimize shade on adjoining properties from structures and trees.

1303.2 Applicability

The solar design standards in subsection 1303.3 shall apply to applications for a development to create lots in single-family zones and for single-family detached dwellings in any zone, except to the extent the Director finds that the applicant has shown one

SECTION 1300 - SOLAR ACCESS PROTECTION

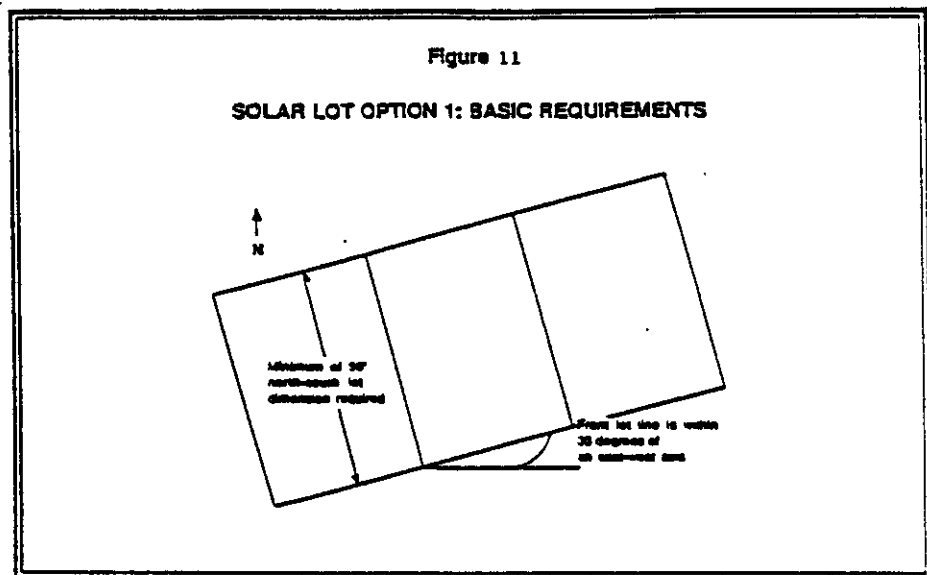
or more of the conditions listed in subsections 1303.4 and 1303.5 exist, and exemptions or adjustments provided for therein are warranted.

1303.3 Design standard

At least 80 percent of the lots in a development subject to these provisions shall comply with one or more of the options in this subsection; provided, a development may, but is not required to, use the options in subsections 1303.3.B or 1303.3.C to comply with Section 1303.

A. Basic requirement. A lot complies with subsection 1303.3 if it:

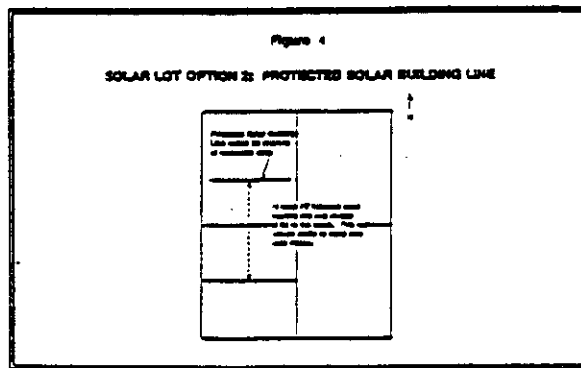
1. Has a north-south dimension of 90 feet or more; and
2. Has a front lot line that is oriented within 30 degrees of a true east-west axis (see Figure 11).



B. Protected solar building line option. In the alternative, a lot complies with subsection 1303.3 if a solar building line is used to protect solar access as follows:

1. A protected solar building line is designated on the plat or in documents recorded with the plat; and
2. The protected solar building line is oriented within 30 degrees of a true east-west axis; and
3. There is at least 70 feet between the protected solar building line and the middle of the north-south dimension of the lot to the south, measured along a line perpendicular to the protected solar building line; and
4. There is at least 45 feet between the protected solar building line and the northern edge of the buildable area of the lot, or habitable structures are situated so that at least 80 percent of their south-facing wall will not be shaded by structures or nonexempt vegetation (see Figure 4).

SECTION 1300 - SOLAR ACCESS PROTECTION



C. Performance option. In the alternative, a lot complies with subsection 1303.3 if:

1. Habitable structures built on that lot will have their long axis oriented with 30 degrees of a true east-west axis, and at least 80% of their ground floor south wall will be protected from shade by structures and nonexempt trees using appropriate deed restrictions; or
2. Habitable structures built on that lot will orient at least 32% of their glazing and at least 500 square feet of their roof area to face within 30 degrees east or west of true south, and that glazing and roof area are protected from shade by structures and nonexempt trees using appropriate deed restrictions.

1303.4 Exemptions from design standard

A development is exempt from subsection 1303.3 if the Director finds the applicant has shown that one or more of the following conditions apply to the site. A development is partially exempt from subsection 1303.3 to the extent the Director finds the applicant has shown that one or more of the following conditions apply to a corresponding portion of the site. If a partial exemption is granted for a given development, the remainder of the development shall comply with subsection 1303.3.

- A. Slopes. The site, or a portion of the site for which the exemption is sought, is sloped 20 percent or more in a direction greater than 45 degrees east or west of true south, based on a topographic survey by a licensed professional land surveyor or USGS or other officially recognized topographic information.
- B. Off-site shade. The site, or a portion of the site for which the exemption is sought, is within the shadow pattern of off-site features, such as, but not limited to, structures, topography, or nonexempt vegetation, which will remain after development occurs on the site from which the shade is originating.
 1. Shade from an existing or approved off-site dwelling in a single-family residential zone and from topographic features is assumed to remain after development of the site.

SECTION 1300 - SOLAR ACCESS PROTECTION

2. Shade from an off-site structure is a zone other than a single-family residential zone is assumed to be the shadow pattern of the existing or approved development thereon or the shadow pattern that would result from the largest structure allowed at the closest setback on adjoining land, whether or not that structure now exists.
 3. Shade from off-site vegetation is assumed to remain after development of the site if: The trees that cause it are situated in a required setback; or they are part of a developed area, public park, or legally reserved open space; or they are in or separated from the developable remainder of a parcel by an undevelopable area or feature; or they are part of landscaping required pursuant to local law.
 4. Shade from other off-site sources is assumed to be shade that exists or that will be cast by development for which applicable local permits have been approved on the date a complete application for the development is filed.
- C. On-site shade. The site, or a portion of the site for which the exemption is requested, is:
1. Within the shadow pattern of on-site features such as, but not limited to structures and topography which will remain after the development occurs; or
 2. Contains nonexempt trees at least 30 feet tall and more than 6 inches in diameter measured 4 feet above the ground which have a crown cover over at least 80% of the site, or the relevant portion. The applicant can show such crown cover exists using a scaled survey or an aerial photograph. If granted, the exemption shall be approved subject to the condition that the applicant preserve at least 50% of the crown cover that causes the shade that warrants the exemption. The applicant shall file a note on the plat or other documents in the Office of the County Recorder binding the applicant to comply with this requirement. The City shall be made a party to any covenant or restriction created to enforce any provision of this Section. The covenant or restriction shall not be amended without written City approval.
- D. Completion of phased subdivision. The site is part of a phased subdivision none of which was subject to Section 1303, and the site and the remainder of the unplatted portion of the phased subdivision contains no more than 20 percent of the lots in all phases of the subdivision.

1303.5 Adjustment to design standard

The Director shall reduce the percentage of lots that must comply with subsection 1303.3 to the minimum extent necessary if he or she finds the applicant has shown it would cause or is subject to one or more of the following conditions.

- A. Adverse impacts on density and cost or amenities.
1. If the design standard in subsection 1303.3.A is applied, either the resulting density is less than that proposed, or on-site site development costs (e.g.

SECTION 1300 - SOLAR ACCESS PROTECTION

grading, water, storm drainage and sanitary systems, and road) and solar related off-site site development costs are at least 5% more per lot than if the standard is not applied. The following conditions, among others, could constrain the design of a development in such a way that compliance with subsection 1303.3.A would reduce density or increase per lot costs in this manner. The applicant shall show which if any of these or other similar site characteristics apply in an application for a development.

- a. The portion of the site for which the adjustment is sought has a natural grade that is sloped 10 percent or more and is oriented greater than 45 degrees east or west of true south based on a topographic survey of the site by a professional land surveyor or USGS or other officially recognized topographic information.
 - b. There is a significant natural feature on the site, identified as such in the Comprehensive plan or development ordinance, that prevents given streets or lots from being oriented for solar access, and it will exist after the site is developed.
 - c. Existing road patterns must be continued through the site or must terminate on the site to comply with applicable road standards or public road plans in a way that prevents given streets or lots in the development from being oriented for solar access.
 - d. An existing public easement or right-of-way prevents given streets or lots in the development from being oriented for solar access.
2. If the design standard in subsection 1303.3.A applies to a given lot or lots, significant development amenities that would otherwise benefit the lot(s) will be lost or impaired. Evidence that a significant diminution in the market value of the lot(s) would result from having the lot(s) comply with subsection 1303.3.A is relevant to whether a significant development amenity is lost or impaired.
- B. Impacts of existing shade. The shadow pattern from nonexempt trees cover over at least 80% of the lot and at least 50% of the shadow pattern will remain after development of the lot. The applicant can show the shadow pattern using a scaled survey of nonexempt trees on the site or using an aerial photograph.
1. Shade from nonexempt trees is assumed to remain if: the trees are situated in a required setback; or they are part of an existing or proposed park, open space, or recreational amenity; or they are separated from the developable remainder of their parcel by an undevelopable area or feature; or they are part of landscaping required pursuant to local law; and they do not need to be removed for a driveway or other development.

SECTION 1300 - SOLAR ACCESS PROTECTION

2. Also, to the extent the shade is caused by on-site trees or off-site trees on land owned by the applicant, it is assumed to remain if the applicant files in the Office of the County Recorder a covenant binding the applicant to retain the trees causing the shade on the affected lots.

1303.6 Protection from future shade

Structures and nonexempt vegetation must comply with Section 1304 on all lots in a development subject to Section 1303, including lots for which exemptions or adjustments to Section 1303 have been granted.

The applicant shall file a note on the plat or other documents in the Office of the County Recorder binding the applicant and subsequent purchasers to comply with the future shade protection standards in subsection 1303.6. The City shall be made a party of any covenant or restriction created to enforce any provision of this Section. The covenant or restriction shall not be amended without written City approval.

1303.7 Application

An application for approval of a development subject to this Section shall include:

- A. Maps and text sufficient to show the development complies with the solar design standard of subsection 1303.3, except for lots for which an exemption or adjustment from subsection 1303.3 is requested, including at least:
 1. The north-south lot dimension and front lot line orientation of each proposed lot.
 2. Protected solar building lines and relevant building site restrictions, if applicable.
 3. For the purpose of identifying trees exempt from subsection 1303.6, a map showing existing trees at least 30 feet tall and over 6 inches diameter at a point 4 feet above grade, indicating their height, diameter, and species, and stating that they are to be retained and are exempt.
 4. Copies of all private restrictions relating to solar access.
- B. If an exemption or adjustment to subsection 1303.3 is requested, maps and text sufficient to show that given lots or areas in the development comply with the standards for such an exemption or adjustment in subsection 1303.4 or 1303.5, respectively.

1303.8 Process for approval

Requirements for meeting this Section shall be processed simultaneously with other application requirements as provided by this Ordinance, or in conjunction with building permit requests. The City's decision whether or not to grant approval is intended to be ministerial.

SECTION 1300 - SOLAR ACCESS PROTECTION

1304 SOLAR BALANCE POINT

1304.1 Purpose

The purposes of this Section are to promote the use of solar energy, to minimize shading of structures by structures and accessory structures, and, where applicable, to minimize shading of structures by trees. Decisions related to this Section are intended to be ministerial

1304.2 Applicability

This Section applies to an application for a building permit for all structures in single-family zones and all single-family detached structures in any zone, except to the extent the Director finds the applicant has shown that one or more of the conditions listed in subsections 1304.5 or 1304.6 exists, and exemptions or adjustments are warranted. In addition, nonexempt vegetation planted on lots subject to the provisions of subsection 1303.6 shall comply with the shade point height standards as provided in subsections 1304.5 and 1304.6 below.

1304.3 Solar site plan required

An applicant for a building permit for a structure subject to this Section shall submit a site plan that shows:

- A. The maximum shade point height allowed under Section 1304.4;
- B. If the maximum shade point height is adjusted pursuant to subsection 1304.4.A.2, the average elevation of the rear property line;
- C. The location of the shade point, its height relative to the average elevation of the front lot line or the elevation at the midpoint of the front lot line, and its orientation relative to true south; and, if applicable,
- D. The solar balance point for the structure as provided in subsection 1304.8.

1304.4 Maximum shade point height standard

The height of the shade point shall comply with either subsection 1304.4.A or 1304.4.B below.

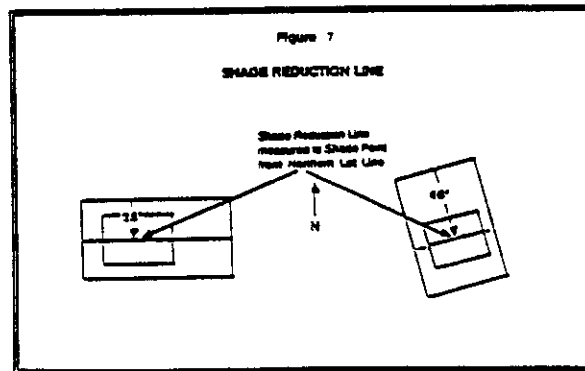
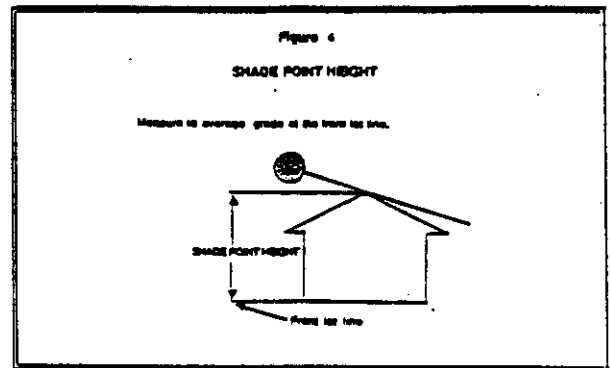
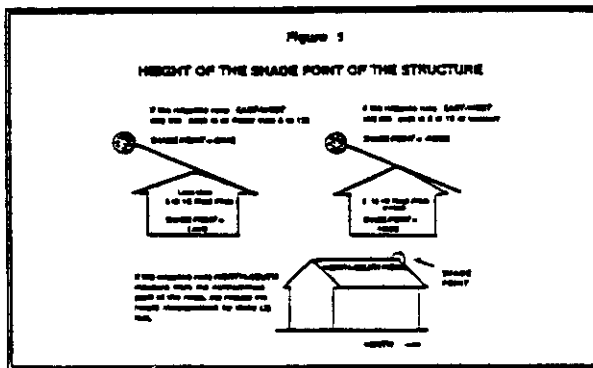
A. Basic requirement.

- 1. The height of the shade point shall be less than or equal to the height specified in Table A or computed using the following formula. The height of the shade point shall be measured from the shade point to either the average elevation at the front lot line or the elevation at the midpoint of the front lot line. If necessary interpolate between the 5 foot dimensions listed in Table A.

SECTION 1300 - SOLAR ACCESS PROTECTION

$$H = \frac{(2 \times SRL) - N + 150}{5}$$

- Where:
- H = the maximum allowed height of the shade point (see Figures 5 and 6);
 - SRL = shade reduction line (the distance between the shade point and the northern lot line, (see Figure 7); and
 - N = the north-south lot dimension, provided that a north-south lot dimension more than 90 feet shall use a value of 90 feet for this Section.



2. Provided, the maximum allowed height of the shade point may be increased one foot above the amount calculated using the formula or Table A for each foot that the average grade at the rear property line exceeds the average grade at the front property line.

SECTION 1300 - SOLAR ACCESS PROTECTION

TABLE A - MAXIMUM PERMITTED SHADE POINT HEIGHT (in Feet)														
Distance to Shade Reduction Line from northern lot line (in feet)	North-south lot dimension (in feet)													
	100+	95	90	85	80	75	70	65	60	55	50	45	40	
70	40	40	40	41	42	43	44							
65	38	38	38	39	40	41	42	43						
60	36	36	36	37	38	39	40	41	42					
55	34	34	34	35	36	37	38	39	40	41				
50	32	32	32	33	34	35	36	37	38	39	40			
45	30	30	30	31	32	33	34	35	36	37	38	39		
40	28	28	28	29	30	31	32	33	34	35	36	37	38	
35	26	26	26	27	28	29	30	31	32	33	34	35	36	
30	24	24	24	25	26	27	28	29	30	31	32	33	34	
25	22	22	22	23	24	25	26	27	28	29	30	31	32	
20	20	20	20	21	22	23	24	25	26	27	28	29	30	
15	18	18	18	19	20	21	22	23	24	25	26	27	28	
10	16	16	16	17	18	19	20	21	22	23	24	25	26	
5	14	14	14	15	16	17	18	19	20	21	22	23	24	

- B. Performance option. The proposed structure, or applicable nonexempt vegetation, will shade not more than 20 percent of the south-facing glazing of existing habitable structures(s), or, where applicable, the proposed structure or nonexempt vegetation comply with subsection 1303.3.B or 1303.3.C. If subsection 1303.3.B, Protected solar building line, is used, nonexempt trees and the shade point of structures shall be set back from the protected solar building line 2.5 feet for every 1 foot of height of the structure or of the mature height of nonexempt vegetation over 2 feet.

1304.5 Exemption from the maximum shade point height standard

The Director shall exempt a proposed structure or nonexempt vegetation from subsection 1303.3 and 1303.4 if the applicant shows that one or more of the conditions in this subsection exist, based on plot plans or plats, corner elevations or other topographical data, shadow patterns, sun charts or photographs, or other substantial evidence submitted by the applicant.

- A. Exempt lot. When created, the lot was subject to subsection 1303.3 and was not subject to the provisions of subsection 1303.6.
- B. Pre-existing shade. The structure or applicable nonexempt vegetation will shade an area that is shaded by one or more of the following:
1. An existing or approved building or structure;
 2. A topographic feature; or
 3. A nonexempt tree that will remain after development of the site. It is assumed a tree will remain after development if it: is situated in a building setback required by local law; is part of a developed area or landscaping required by local law, a public park or landscape strip, or legally reserved open space; is in or separated from the developable remainder of a parcel by an undevelopable area or feature; or is on the applicant's property and not affected by the development. A duly executed covenant also can be used to preserve trees causing such shade.

SECTION 1300 - SOLAR ACCESS PROTECTION

- C. Slope. The site has an average slope that exceeds 20 percent in a direction greater than 45 degrees east or west of true south based on a topographic survey by a licensed professional land surveyor or USGS or other officially recognized topographic information.
- D. Insignificant benefit. The proposed structure or nonexempt vegetation shades one or more of the following:
 - 1. An undevelopable area;
 - 2. The wall of an unheated space, such as a typical garage;
 - 3. Less than 20 square feet of south-facing glazing; or
 - 4. An undeveloped lot, other than a lot that was subject to Section 1303, where:
 - a. There are at least four single family detached or attached homes within 250 feet of the lot within the same subdivision or a phase of the subdivision; and
 - b. A majority of the homes identified in subsection 1304.5.D.4.a above have an average of less than 20 square feet of south-facing glazing.
- E. Public improvement. The proposed structure is a publicly owned improvement.

1304.6 Adjustments to the maximum shade point height standard

The Director shall increase the maximum permitted height of the shade point determined using subsection 1304.4 to the extent he or she finds the applicant has shown one or more of the following conditions exist, based on plot plans or plats, corner elevations or other topographical data, shadow patterns, sun charts or photographs, or other substantial evidence submitted by the applicant.

- A. Physical conditions. Physical conditions preclude development of the site in a manner that complies with subsection 1304.4, due to such things as a lot size less than 3,000 square feet, unstable or wet soils, or a drainage way, public or private easement, or right-of-way.
- B. Conflict between the maximum shade point height and allowed shade on the solar feature standards. A proposed structure may be sited to meet the solar balance point standard described in subsection 1304.8 or be sited as near to the solar balance point as allowed by subsection 1304.8, if:
 - 1. When the proposed structure is sited to meet the maximum shade point height standard determined using subsection 1304.4, its solar feature will potentially be shaded as determined using subsection 1304.7; and
 - 2. The application includes a form provided for that purpose by the City that:
 - a. Releases the applicant from complying with subsection 1304.4 and agrees that the proposed structure may shade an area otherwise protected by subsection 1304.4.

SECTION 1300 - SOLAR ACCESS PROTECTION

- b. Releases the City from liability for damages resulting from the adjustment; and
 - c. Is signed by the owner(s) of the properties that would be shaded by the proposed structure more than allowed by the provisions of subsection 1304.4.
3. Before the City issues a permit for a proposed structure for which an adjustment has been granted pursuant to subsection 1304.6.B, the applicant shall file the form provided for in subsection 1304.6.B.2 above in the Office of the County Recorder with the deeds to the affected properties.

1304.7 Analysis of allowed shade on solar feature

- A. An applicant may, but is not required to, perform the calculations in or comply with the standards of this Section.
- B. Applicants are encouraged to design and site a proposed habitable structure so that the lowest height of any solar feature(s) will not be shaded by buildings or nonexempt trees on lot(s) to the south. The applicant should complete the following calculation procedure to determine if solar feature(s) of the proposed structure will be shaded. To start, the applicant should choose which of the following sources of shade originating from adjacent lot(s) to the south to use to calculate the maximum shade height at the north property line:
 1. Existing structure(s) or nonexempt trees; or
 2. The maximum shade that can be cast from future buildings or nonexempt trees, based on Table C. If the lot(s) to the south can be further divided, then the north-south dimension is assumed to be the minimum lot width required for a new lot in that zone.
- C. The height of the lowest point of any solar feature of the proposed structure is calculated with respect to either the average elevation or the elevation at the midpoint of the front lot line of the lot to the south.
- D. The applicant can determine the height of the shadow that may be cast upon the applicant's solar feature by the source of shade selected in subsection 1304.7.B by using the following formula or Table B.

$$\text{SFSH} = \text{SH} - (\text{SGL}/2.5)$$

Where: SFSH = the allowed shadow height on the solar feature (see Figure 12)

SH = the height of the shade at the northern lot line of lot(s) to the south as determined in subsection 1304.7.B

SGL = the solar gain line (the distance from the solar feature to the northern lot line of adjacent lot(s) to the south, see Figure 10)

SECTION 1300 - SOLAR ACCESS PROTECTION

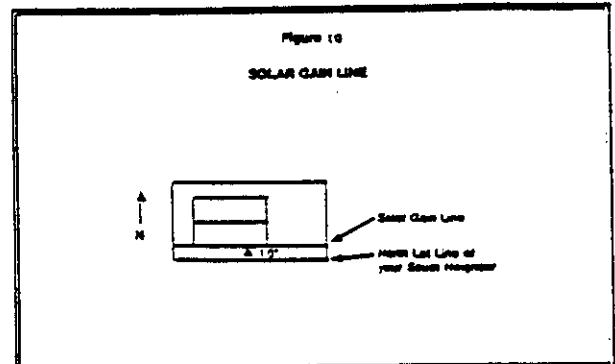
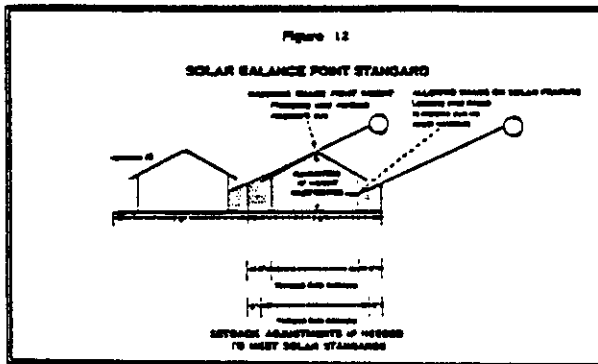


TABLE B - MAXIMUM PERMITTED HEIGHT OF SHADOW AT SOLAR FEATURE (feet)											
Distance from Solar Gain Line to lot line (feet)	Allowed Shade Height at Northern Lot Line of Adjacent Lot(s) to the South (feet)										
	22	21	20	19	18	17	16	15	14	13	12
50	2	1									
45	4	3	2	1							
40	6	5	4	3	2	1					
35	8	7	6	5	4	3	2	1			
30	10	9	8	7	6	5	4	3	2	1	
25	12	11	10	9	8	7	6	5	4	3	2
20	14	13	12	11	10	9	8	7	6	5	4
15	16	15	14	13	12	11	10	9	8	7	6
10	18	17	16	15	14	13	12	11	10	9	8
5	20	19	18	17	16	15	14	13	12	11	10

Table C may be used to determine (SH) in the above formula.

TABLE C													
North-south lot dimension of adjacent lot(s) to the south	100	95	90	85	80	75	70	65	60	55	50	45	40
Allowed shade height at the north property line of adjacent lot(s) to south	12	12	12	13	14	15	16	17	18	19	20	21	22

- E. If allowed shade height on the solar feature calculated in subsection 1304.7.D is higher than the lowest height of the solar feature calculated in subsection 1304.7.C, the applicant shall be encouraged to consider changes to the house design or location which would make it practical to locate the solar feature so that it will not be shaded in the future.

1304.8 Solar balance point

If a structure does not comply with maximum shade point height standard in subsection 1304.4 and the allowed shade on a solar feature standard in subsection 1304.7, then the solar balance point of the lot shall be calculated. The solar balance point is the point on the lot where a structure would be the same from complying with both of these standards.

SECTION 1300 - SOLAR ACCESS PROTECTION

1304.9 Yard setback adjustment

The City shall grant an adjustment to the side, front, and/or rear yard setback requirement(s) by up to 50% if necessary to build a proposed structure so it complies with either the shade point height standard in subsection 1304.4, the allowed shade on a solar feature standard in subsection 1304.7, or the solar balance point standard in subsection 1304.8. This adjustment is not intended to encourage reductions in available solar access or unnecessary modification of setback requirements, and shall apply only if necessary for a structure to comply with the applicable provisions of Section 1300.

A. R-1, R-2, R-2.5, R-3, R-5, and R-7 Zones:

1. A front yard setback may be reduced to not less than 10 feet.
2. A rear yard setback may be reduced to not less than 10 feet
3. A side yard setback may be reduced to not less than 3 feet.

B. R-10 Zone:

1. A front yard setback may be reduced to not less than 15 feet.
2. A rear yard setback may be reduced to not less than 15 feet.
3. A side yard setback may be reduced to not less than 5 feet.

1304.10 Application and review process

An application for a building permit shall include the information necessary to meet the provisions of subsection 1304.4, and shall be processed pursuant to subsection 1011.1 of this Ordinance. The Building Official shall refer the plan to the Director for review and approval prior to issuing a building permit, or the Director may delegate this responsibility for review and approval to the Building Official.

1305 SOLAR ACCESS PERMIT

1305.1 Purpose

The purpose of this Section is to protect solar access to solar features on lots designated or used for a single-family detached dwelling under some circumstances. It authorizes owners of such lots to apply for a certification permit that, if granted, prohibits solar features from being shaded by certain future vegetation on and off the permittee's site.

1305.2 Applicability

An owner or contract purchaser of property may apply for and/or be subject to a solar access permit for a solar feature if that property is in a single-family zone, or is or will be developed with a single-family dwelling. The City's decision whether or not to grant a solar access permit is intended to be ministerial.

SECTION 1300 - SOLAR ACCESS PROTECTION

1305.3 Approval standards for a solar access permit

The Director shall approve an application for a solar access permit if the applicant shows:

- A. The information contained in the application is complete and accurate; and
- B. Nonexempt vegetation on the applicant's property does not shade the solar feature, as demonstrated by the site plan submitted and the specific information required in subsection 1305.5.

1305.4 Duties created by solar access permit

- A. A party to whom the City grants a solar access permit shall:
 - 1. Record the permit, legal descriptions of the properties affected by the permit, the solar access height limit, and the site plan required in subsection 1305.5.C with such modifications as required by the Director in the Office of the County Recorder with the deeds to the properties affected by it, indexed by the names of the owners of the affected properties, and shall pay the fees for such filing;
 - 2. Install the solar feature in a timely manner as provided in subsection 1305.8; and
 - 3. Maintain nonexempt vegetation on the site so it does not shade the solar feature.
- B. As owner of property burdened by a solar access permit shall be responsible and pay all costs for keeping nonexempt vegetation from exceeding the solar access height limit. However, vegetation identified as exempt on the site plan required in subsection 1305.5.C, vegetation an owner shows was in the ground on the date an application for a solar access permit is filed, and solar friendly vegetation are exempt from the solar access permit.

1305.5 Application contents

An application for a solar access permit shall contain the following information:

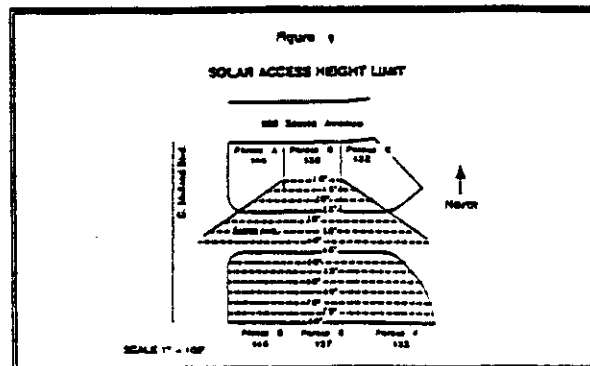
- A. A legal description of the applicant's lot and a legal description, owner's names, and owner's addresses for lots all or a portion of which are within 150 feet of the applicant's lot and 54 degrees east and west of true south measured from the east and west corners of the applicant's south lot line. The records of the County Assessor's Office shall be used to determine who owns property for purposes of an application. The failure of a property owner to receive notice shall not invalidate the action if a good faith attempt was made to notify all persons who may be affected.
- B. A scaled plan of the applicant's property showing:
 - 1. Vegetation in the ground as of the date of the application if, when mature, that vegetation could shade the solar feature.

1305.6

- E. A fee as required by the City.
- F. If available, a statement signed by the owner(s) of some or all of the property(ies) to which the permit will apply if granted verifying that the vegetation shown on the plan submitted pursuant to subsection 1305.5.C above accurately represents vegetation in the ground on the date of the application. The City shall provide a form for that purpose. The signed statements provided for herein are permitted but not required for a complete application.

Application review process

- 1300-21



SECTION 1300 - SOLAR ACCESS PROTECTION

- B. After the preapplication meeting is held or waived, the applicant may file an application containing the information required in subsection 1305.5 above.
- C. Within 7 calendar days after an application is filed, the Director or his or her designee shall determine whether the application is complete and if it is not complete, notify the applicant in writing, and specify what is required to make it complete.
- D. Within 14 calendar days after the Director decides an application for a solar access permit is complete, the Director or his or her designee shall issue a written decision tentatively approving or denying the request, together with reasons therefore, based on the standards of subsection 1305.3.
 - 1. If the tentative decision is to deny the permit, the Director shall mail a copy of the decision to the applicant.
 - 2. If the tentative decision is to approve the permit, and the owners of all affected properties did verify the accuracy of the plot plan as authorized under subsection 1305.5.F, the Director shall mail a copy of the decision to the applicant and affected parties by certified mail, return receipt requested.
 - 3. If the tentative decision is to approve the permit, and the owners of all affected properties did not verify the accuracy of the plot plan as permitted under subsection 1305.5.F, the Director shall send a copy of the tentative decision by certified mail, return receipt requested, to the applicant and to the owners of affected properties who did not sign the verification statement pursuant to subsection 1305.5.F. If the Director determines that the owners of a given property affected by the permit are not the occupants of that property, then the Director also shall send a copy of the notice to the occupants of such property.
 - a. The notice sent to the applicant shall include a sign that says a solar access permit for the property has been tentatively approved, and that informs readers where to obtain more information about it. The applicant shall be instructed to conspicuously post the sign so it is visible from right-of-way adjoining the property, and to sign and return a form provided by the Director certifying that the sign was posted as provided herein not more than 14 days after the tentative decision was mailed.
 - b. The notice shall include the plot plans required in subsections 1305.5.B and 1305.5.C above, the proposed solar access height limits, and duties created by the permit.

SECTION 1300 - SOLAR ACCESS PROTECTION

- c. The notice shall request recipients to verify that the plot plan shows all nonexempt vegetation on the recipient's property, and to send the Director comments in writing within 14 calendar days after the tentative decision is mailed if the recipient believes the applicant's plot plan is inaccurate.
4. Within 28 days after notice of a tentative decision is mailed to affected parties, the Director shall consider responses received from affected parties and/or an inspection of the site, modify the plot plan and the permit to be consistent with the accurate information, and issue a final decision. The Director shall send a copy of the permit and solar access height limits to the owners of each property affected by the permit by certified mail, return receipt requested.
- E. If the application is approved, and before the permit is effective, the applicant shall record the permit, associated solar access height limits, legal descriptions for the affected properties, and the site plan required in subsection 1305.5.C with such modifications as required by the Director in the Office of the County Recorder with the deeds to the properties affected by it.

1305.7 Permit enforcement process

- A. Enforcement request. A solar access permittee may request the City to enforce the solar access permit by providing the following information to the Director:
 1. A copy of the solar access permit and the plot plans submitted with the permit; and
 2. The legal description of the lot(s) on which alleged nonexempt vegetation is situated, the address of the owner(s) of that property, and a scaled site plan of the lot(s) showing the nonexempt vegetation; and
 3. Evidence the vegetation violates the solar access permit, such as a sun chart photograph, shadow pattern, and/or photographs.
- B. Enforcement process. If the Director determines the request for enforcement is complete, he or she shall initiate an enforcement action pursuant to applicable provisions of the Milwaukie Municipal Code. The Director shall not enforce the permit provisions where a property owner can show that vegetation was in the ground on the date the permit application was filed with the City.

1305.8 Expiration and extension of a solar access permit

- A. Expiration. Every permit issued by the Director under the provisions of this Section shall expire if the construction of the solar feature protected by such permit is not commenced within 180 days from the date of such permit, or if the construction of the solar feature protected by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before such work can be recommenced, a new permit shall be first obtained to do so, and the fee therefor shall be one half the amount required for a new permit for such work, provided no changes

SECTION 1300 - SOLAR ACCESS PROTECTION

have been made or will be made in the original plans and specifications for such work; and provided further that such suspension or abandonment has not exceeded one year. If the permittee does not show construction of the solar feature will be started within 180 days of the date of the permit or the extension, or if the solar feature is removed, the Director shall terminate the permit by recording a notice of expiration in the Office of the County Recorder with the deeds to the affected properties.

- B. Extension. Any permittee holding an unexpired permit may apply for an extension of the time within which he or she may commence work under that permit. The permittee shall state reasons that can be deemed to be good and satisfactory by the Director. The Director may extend the time for action by the permittee for a period not exceeding 180 days upon written request by the permittee showing that circumstances beyond the control of the permittee have prevented action from being taken. No permit shall be extended more than once.